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# EXECUTIVE & LEGISLATURE

## 1 The difference between Private & Government Bills in Parliament

### What is a private member's Bill?

- A private member's Bill is different from a government Bill and is piloted by an MP who is not a minister.
- Individual MPs may introduce private member's Bill to draw the government's attention to what they might see as issues requiring legislative intervention.
- An MP who is not a minister is a private member and while both private members and ministers take part in the lawmaking process, Bills introduced by private members are referred to as private member's Bills and those introduced by ministers are called government Bills.
- Government Bills are backed by the government and also reflect its legislative agenda.
- The admissibility of a private Bill is decided by the Chairman in the case of the Rajya Sabha and the Speaker in the case of the Lok Sabha.
- Before the Bill can be listed for introduction, the Member must give at least a month's notice, for the House Secretariat to examine it for compliance with constitutional provisions and rules on legislation.
- While a government Bill can be introduced and discussed on any day, a private member's bill can only be introduced and discussed on Fridays.

### Has a private member's bill ever become a law?

- As per PRS Legislative, no private member's Bill has been passed by Parliament since 1970.
- To date, Parliament has passed 14 such Bills, six of them in 1956.
- In the 14th Lok Sabha, of the over 300 private member's Bills introduced, roughly four per cent were discussed; the remaining 96 per cent lapsed without a single dialogue.
- The selection of Bills for discussion is done through a ballot.

## 2 DISQUALIFICATION UNDER ANTI-DEFECTION LAW

### Context:

- Delhi Assembly Speaker had disqualified rebel AAP MLA Kapil Mishra under the anti-defection law.
- **Anti-Defection provisions under the Tenth Schedule.**

- **Disqualification**

- ▶ If a member of a house belonging to a political party:

- Voluntarily gives up the membership of his political party, or
- Votes, or does not vote in the legislature, contrary to the directions of his political party.
- However, if the member has taken prior permission, or is condoned by the party within 15 days from such voting or abstention, the member shall not be disqualified.

- ▶ If an independent candidate joins a political party after the election.

- ▶ If a nominated member joins a party six months after he becomes a member of the legislature.

- **Power to Disqualify**

- ▶ The Chairman or the Speaker of the House takes the decision to disqualify a member.
- ▶ If a complaint is received with respect to the defection of the Chairman or Speaker, a member of the House elected by that House shall take the decision.

- **Exception - Merger**

- ▶ A person shall not be disqualified if his original political party merges with another, and:
  - He and other members of the old political party become members of the new political party, or
  - He and other members do not accept the merger and opt to function as a separate group.
- ▶ This exception shall operate only if not less than two-thirds of the members of party in the House have agreed to the merger.

**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.
- In this case, the Aam Admi Party MLA was found to be campaigning for Bharatiya Janta Party in the recent 2019 Lok Sabha Election.
- With this conduct, the Speaker of Delhi Assembly concluded that he (Kapil Mishra) had "given up the membership of his original political party".

### 3

## REMOVAL OF ARTICLE 370 AND 35A

**Context:** The Centre decided to end the special status given to Jammu and Kashmir (J&K) under Article 370.

- President of India in "concurrence" with the "Jammu and Kashmir government" promulgated Constitution (Application to Jammu and Kashmir) Order, 2019 which states that provisions of the Indian Constitution are applicable in the State. This **effectively means that all the provisions that formed the basis of a separate Constitution for Jammu and Kashmir stand abrogated. With this, Article 35A is scrapped automatically.**
- Also, Jammu and Kashmir Reorganization Act, 2019 was passed by the Parliament. **Jammu & Kashmir (J&K) was re-organised into two Union Territories - J&K division with a legislative assembly and the UT of Ladakh without having an assembly.**

### Article 370 and Article 35A – A brief background

- The peculiar position of Jammu and Kashmir was due to the circumstances in which the State acceded to India. The Government of India had declared that it was the people of the state of J&K, acting through their constituent assembly, who were to finally determine the constitution of the state and the jurisdiction of government of India.
- The applicability of the provisions of the Constitution regarding this State were accordingly, to be in nature of an interim arrangement. This was the substance of the provision embodied in Art. 370 of the Constitution of India.
- Art. 370 had “temporary provisions with respect to the State of Jammu and Kashmir” which gave special powers to the state allowing it to have its own Constitution.
- According to article 370, except for defence, foreign affairs, finance and communications, Parliament needs the state government’s concurrence for applying all other laws.
- **Article 35A of the Indian Constitution**, which stemmed out of Article 370, gave powers to the **Jammu and Kashmir Assembly to define permanent residents of the state, their special rights and privileges.**

#### Possible implications of the move

- Complete applicability of Indian Constitution to J&K
- No separate flag
- Tenure of the J&K assembly to be five years, instead of the earlier six years.
- Replacing Ranbir Penal Code (the separate penal code for J&K) with the Indian Penal Code.
- Article 356 under which the President’s Rule can be imposed in any state, will also be applicable to the UT of Jammu and Kashmir.
- The central quota laws in school-college admissions and state government jobs will apply.
- People from other states may be able to acquire property and residency rights.
- RTI would be made applicable.
- Certain provisions of the J&K Constitution which denied property rights to native women who marry a person from outside the State may stand invalidated.

## 4

### REGISTER OF INDIGENOUS INHABITANTS OF NAGALAND (RIIN)

**Context:** The Nagaland government is initiating an exercise to prepare a list of all indigenous inhabitants of the State known as RIIN.

#### More on News:

- This provisional list will then be published in all villages, wards and on government websites by September 11, 2019.
- A team of surveyors will be formed, which will comprise sub-divisional officers, block development officers, school headmasters and other nominated members.

#### What is RIIN?

- The RIIN will be the first official **master list** of Nagaland’s indigenous inhabitants. It is seen as a localised version of the **National Register of Citizens (NRC)** that Assam began updating four years ago and is scheduled to complete by July 31.

- Its objective is to prevent people from acquiring fake indigenous inhabitants' certificates.
- The RIIN cannot grant nor deny citizenship to any person.
- Nodal Agency: **Registrar General and Census Commissioner India.**

### How will it be prepared?

- Civil society groups in Nagaland have often conducted house-to-house surveys for listing non-Naga and IBIs (Illegal Bangladeshi Immigrants).
- The list will be based on an extensive survey besides digging into official records of indigenous residents from villages and urban wards.
- It will involve official records of indigenous residents from rural and (urban) wards and would be prepared under the supervision of the district administration.
- RIIN will be finalised and hard copies placed in all villages and wards while electronic copies will be stored in the State Data Centre
- Everyone figuring in RIIN will be issued a barcoded and numbered Indigenous Inhabitant Certificate (IIC). No IIC will be issued after RIIN is finalised except to babies born to indigenous inhabitants of Nagaland.
- The process will be linked with the online system of Inner Line Permit (ILP).

## 5 Inner Line Permit (ILP)

**Context:** In the run-up to the likely introduction of the Citizenship Amendment Bill during the current session of Parliament, the concept of Inner Line Permit has been part of the conversation.

### Inner Line Permit (ILP)

- The Inner Line Permit concept comes from the colonial area. Under the Bengal Eastern Frontier Regulation Act, 1873, the British framed regulations restricting the entry and regulating the stay of outsiders in designated areas.
- Inner Line Permit (ILP) is an official travel document issued by the Government of India to allow inward travel of an Indian citizen into a protected area for a limited period.
- It is obligatory for Indian citizens from outside those states to obtain a permit for entering into the protected state.
- The document is an effort by the government to regulate movement to certain areas located near the international border of India.
- There are different kinds of ILP's, one for tourists and others for people who intend to stay for long-term periods, often for employment purposes.

### Where is it applicable?

- The system is in force today in three North-eastern states:
  - Arunachal Pradesh

### Inner Line Permit (ILP)

- It is a temporary travel document, which an Indian citizen has to possess to enter 'protected' areas of the Northeast.
- The Central government issues the ILP under the **Bengal Eastern Frontier Regulation, 1873**, which restricted the entry of '**British subjects**' or Indians into these areas primarily to protect the British interest in tea and oil.
- The restriction continued for '**Citizens of India**' after Independence to protect tribal cultures in the north-eastern region and to regulate movement to certain areas near the international border.
- Apart from the entire State of Nagaland barring its commercial hub Dimapur, the ILP is applicable in Arunachal Pradesh and Mizoram.



- Nagaland
- Mizoram
- No Indian citizen can visit any of these states unless he or she does not belong to that state, nor can he or she overstay beyond the period specified in the ILP.

## 6 Pardoning Powers of President

**Context:** The Ministry of Home Affairs (MHA) has sent a letter to the Punjab government to commute the death sentence of Balwant Singh Rajoana, convicted for the assassination of former Chief Minister Beant Singh.

### More on News:

- The MHA took an “in principle” decision to commute the sentence as a “humanitarian gesture” ahead of the 550th birth anniversary celebrations of Guru Nanak, the founder of Sikhism.
- Based on the replies received by the Centre, the President can commute the death sentence under Article 72 of the Constitution.
- Clemency powers of the President under article 72: It says that the President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence.
- Pardon –A pardon completely absolves the offender from all sentences and punishment and disqualifications and places him in the same position as if he had never committed the offence.
- Commutation– Commutation means exchange of one thing for another. In simple words to replace the punishment with less severe punishment. For example for Rigorous imprisonment- simple imprisonment.
- Reprieve– Reprieve means temporary suspension of death sentence. For example- pending a proceeding for pardon or commutation.
- Respite – Respite means awarding a lesser punishment on some special grounds. For example- the Pregnancy of women offender.
- Remissions– Remission means the reduction of the amount of sentence without changing its character, for example, a sentence of 1 year may be remitted to 6 months.

### Key Facts

- The pardoning power of President is wider than the governor
- The power of the President to grant pardon extends in cases where the punishment or sentence is by a Court Martial but Article 161 does not provide any such power to the Governor.
- The President can grant pardon in all cases where the sentence given is sentence of death but pardoning power of Governor does not extend to death sentence cases.

### The President can exercise these powers:

- In all cases where the punishment or sentence is by a court martial;
- In all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;
- In all cases where the sentence is a sentence of death.

## 7

## CABINET SECRETARIAT

**Context:** The government had appointed outgoing Home Secretary Rajiv Gauba as Cabinet Secretary for tenure of two years.

**About:**

- **Cabinet Secretariat**

- **Article 352** defines the term “**cabinet**” as the Council consisting of the Prime Minister and other Ministers of Cabinet rank under Article 75.
- **Cabinet Secretariat** is the office which provides **secretarial assistance** to the Cabinet.
- It functions directly under the **Prime Minister**.
- The administrative head of the Secretariat is the **Cabinet Secretary** who is also the **ex-officio Chairman of the Civil Services Board**.
- The Cabinet Secretariat is responsible for the administration of:

- **The Government of India (Transaction of Business) Rules, 1961**

- **Government of India (Allocation of Business) Rules, 1961**

- The Secretariat assists in decision-making in Government by ensuring **Inter-Ministerial coordination**, ironing out differences amongst Ministries/Departments and evolving consensus through the instrumentality of the standing/adhoc Committees of Secretaries.
- The secretarial assistance, provided by Cabinet Secretariat to the Cabinet and Cabinet committees, includes:
  - Convening of the meetings of the Cabinet & its Committees on the orders of the Prime Minister.
  - Preparation and circulation of the agenda.
  - Circulation of papers related to the cases on the agenda.
  - Preparation of record of discussions.
  - Circulation of the record of discussions after obtaining the approval of the Prime Minister.
  - Monitoring implementation of decisions taken by the Cabinet and its Committees.
  - Office of Principal Scientific Adviser has been placed administratively under the Cabinet Secretariat in August, 2018.
- **Appointment** – All senior level appointments (including Cabinet Secretary) are done with the approval of the **Appointments Committee of the Cabinet**.
- **Tenure** - While the position is for **two years**, under the present rules of service, there is an enabling provision of an extension, granting **four years of tenure**.

## 8

## Digital Census

**Context:** The home minister Amit Shah said that a mobile app will be used for the first time in the 2021 census.

**About Census:**

- The Indian Census is the largest single source of a variety of statistical information on different characteristics of the people of India.

- The **first census was conducted in India non-synchronously in different parts in 1972.**
- The responsibility of conducting the decennial Census rests with the **Office of the Registrar General and Census Commissioner, India under Ministry of Home Affairs, Government of India.**

### What is National Population Register (NPR)?

- The objective of the NPR is **to create a comprehensive identity database of every usual resident in the country.** The database would contain demographic as well as biometric particulars.
- It is being **prepared at the local (Village/sub-Town), sub-District, District, State and National level** under provisions of **the Citizenship Act 1955 and the Citizenship (Registration of Citizens and issue of National Identity Cards) Rules, 2003.**
- **It is mandatory for every usual resident** of India to register in the NPR.
- A usual resident is defined for the purposes of NPR as a person who has resided in a local area for the past 6 months or more or a person who intends to reside in that area for the next 6 months or more.

### About Digital census 2021:

- As all previous censuses in India have been paper-based. A mobile app will be used in Census 2021. It will be a transformation from paper census to digital census.
- The **2021 census is the 16th Indian census.**
- The government was set to spend ₹12,000 crore on the 2021 Census as well as for the preparation of the National Population Register (NPR).
- This mammoth nationwide **exercise will be carried out in 16 languages.**
- The census will have its reference date as March 1, 2021, but for snow-bound Jammu and Kashmir, Himachal Pradesh and Uttarakhand it will be October 1, 2020.

## 9 Five States to get New Governors

### Context:

- President Ram Nath Kovind had announced the appointment of five new Governors in the states of Rajasthan, Maharashtra, Himachal Pradesh, Kerala and Telangana.
- The Governor is the head of a state just like the President is the head of the republic. The Governor is the nominal head of a state, while the Chief Minister is the executive head. All executive actions of the state are taken in the name of the Governor.

### Conditions Of Governor's Office

- The Constitution lays down the following conditions for the governor's office:
- He should not be a member of either House of Parliament or a House of the state legislature. If any such person is appointed as governor, he is deemed to have vacated his seat in that House on the date on which he enters upon his office as the governor.
- He should not hold any other office of profit.
- He is entitled without payment of rent to the use of his official residence (the Raj Bhavan).
- He is entitled to such emoluments, allowances and privileges as may be determined by Parliament.

### Eligibility Criteria

As per **the Constitution of India**, the following are the eligibility criteria for the appointment of the Governor in a particular state:

- He or she must be a **citizen** of India.
- He or she must have completed **35 years of age.**

- When the same person is appointed as the governor of two or more states, the emoluments and allowances payable to him are shared by the states in such proportion as determined by the president.
- His emoluments and allowances cannot be diminished during his term of office

## 10 Semi-Presidential System

**Context:** Political crisis in Sri Lanka and all about Semi-presidential system

### About

- A semi-presidential system is republican system of governance that combines elements of presidential democracy with parliamentary democracy.
- Typically, the head of state is the president, directly elected by the people with a large degree of power over the government, whilst the head of government is the prime minister nominated by the president but who can be dismissed by the legislature.
- An agreement is reached over which of the two heads (state and government) will have the lead in policy areas.
- For example, in France, a well-known example of semi presidential democracy, the president leads foreign policy and the prime minister leads domestic policy.
- Semi-presidential systems may sometimes experience periods in which the president and the prime minister are from differing political parties. This is called “cohabitation”, a term which originated in France.
- Cohabitation can create an effective system of checks and balances or a period of bitter and tense stonewalling, depending on the attitudes of the two leaders, the ideologies of themselves or their parties, or the demands of their constituencies.

## 11 NITI Aayog has released the 2019 SDG India Index

**Context:** NITI Aayog has released the second edition of the Sustainable Development Goals (SDG) India Index, which comprehensively documents the progress made by India’s States and Union Territories towards achieving the 2030 SDG targets.

### Major Outcomes of the index

- India’s composite score has improved from 57 in 2018 to 60 in 2019, thereby showing noticeable progress.
- The maximum gains been made in Goals 6 (clean water and sanitation), 9 (industry, innovation, and infrastructure) and 7 (affordable and clean energy).
- All three states that were in the ‘Aspirant’ category (with score/s in the range of 0–49)—Uttar Pradesh, Bihar and Assam—have graduated to the ‘Performer’ category (50–64).
- Five states—Andhra Pradesh, Telangana, Karnataka, Goa, and Sikkim—moved up from the ‘Performer’ category to the ‘Front Runner’ category (65–99).

### About

- The SDG India Index—which has been developed in collaboration with the Ministry of Statistics and Programme Implementation (MoSPI), United Nations in India, and Global Green Growth Institute—was launched by NITI Aayog.
- NITI Aayog has committed itself to building capacities and monitoring progress at the state level.

- Kerala achieved the first rank in the composite SDG Index with a score of 70, followed by Himachal Pradesh at 69.
- Andhra Pradesh, Telangana, and Tamil Nadu ranked at the third position with the score of 67.
- The biggest improvers since 2018 are UP (which has moved from the 29th position to the 23rd), Orissa (23rd to 15th), and Sikkim (15th to 7th). While Bihar improved its score from 48 in 2018 to 50 in 2019, it still has a long way to go in achieving the targets.

**12**

## **NITI Aayog to draft roadmap for achieving population stabilisation**

### **Context:**

- The NITI Aayog is going to draft a roadmap for achieving population stabilisation in collaboration with the Population Foundation of India (PFI).
- It is organising a National Consultation titled “Realizing the vision of population stabilization: leaving no one behind”.

### **Key Recommendations:**

- Increasing the basket of contraceptive choices, with greater focus on spacing methods and helping women make informed choices about delaying pregnancy and spacing between children.
- Addressing social determinants of health such as age at marriage and sex-selective practices.
- Strengthening quality of care, including counselling services, managing side effects and family planning support.
- Increasing budgetary allocations for family planning, to align with the unmet needs of India’s young people who constitute nearly 30 per cent of our population.
- Addressing existing socio-cultural barriers towards contraception by investing extensively in innovative behaviour-change communication strategies.
- Treating population stabilisation and family planning as a national priority, fostering inter-departmental convergence and ensuring multi sectoral participation and integration.

**13**

## **Abolition of Legislative Council**

**Context:** Andhra Pradesh has become the latest State to favour the alteration of the status quo regarding the Upper House, in an Assembly resolution for its Legislative Council’s abolition.

### **About India’s bicameral system:**

- India has a bicameral system i.e. two Houses of Parliament:
  - the upper House (Rajya Sabha)
  - the lower House in (Lok Sabha)
- The Constitution of India (Article 168 & Article 169) provides for the bi-cameral legislature in certain States.
  - Under Article 168, states can have either one or two Houses of the legislature.
  - Article 169 leaves the choice of having a Vidhan Parishad to individual states.

- At the state level, the equivalent of the Rajya Sabha is the Legislative Council (Vidhan Parishad) and that of Lok Sabha is the Legislative Assembly (Vidhan Sabha).
- **Who decides on the bicameral system?**
  - The Constitution of India does not force a bicameral legislature on states. It allows states the option of having a second House.
  - The State Assembly has to pass a resolution for the creation of the Council by a majority of its total membership.
  - Thereafter, the Parliament (under Article 169) has the power to create or abolish the Legislative Council on the basis of a resolution adopted by the special majority in the Assembly of the concerned State.
  - As of today, five states have Legislative Councils: **Telangana, Bihar, Maharashtra, Karnataka and Uttar Pradesh.**
  - Jammu and Kashmir had a Council until the state was bifurcated into the Union Territories of J&K and Ladakh.

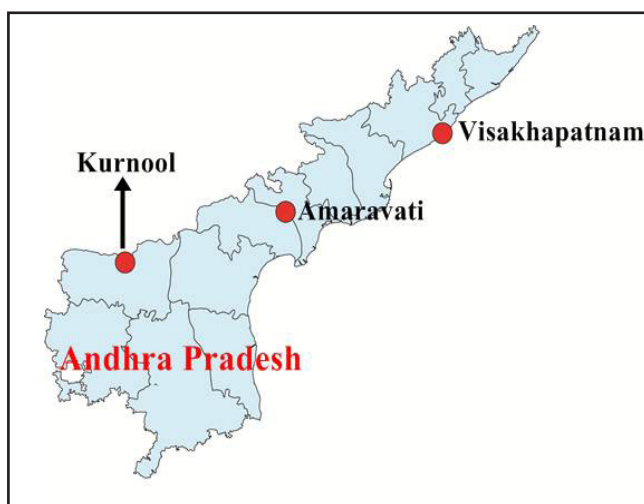
## 14

### Three capitals for Andhra Pradesh — it's logic and the questions it raises'

**Context:** The Andhra Pradesh Assembly has passed 'The Andhra Pradesh Decentralization and Equal Development of All Regions Bill, 2020', paving the way for three capitals for the State.

#### The Three new capitals:

- The three new capitals of Andhra Pradesh will be:
  - Amaravati will now be only the legislative capital
  - Visakhapatnam will be the executive capital
  - Kurnool will be the judicial capital
- Executive capital Visakhapatnam is 700 km from judicial capital Kurnool, and 400 km from legislative capital Amaravati. The Amaravati-Kurnool distance is 370 km.



#### Is it new for India?

- The concept of having more than one capital is not new in India.
- In Rajasthan, the high court is located in Jodhpur, and not in the capital city of Jaipur.
- Even Maharashtra has summer and winter capitals (Mumbai and Nagpur).
- Himachal Pradesh has capitals at Shimla and Dharamshala, while the former state of Jammu and Kashmir had Srinagar and Jammu as capitals.
- However, in Uttarakhand, 5 governments in 19 yrs failed to decide where the capital should be. It holds a unique distinction in Independent India's history of being the only state with no permanent capital.

### Parliament VS State: Who has the power to decide?

- Article 2 and Article 3 of the Constitution of India confer exclusive and plenary powers upon Parliament to form or establish or completely alter and destroy the identity of the existing state.
- It is within the exclusive domain of Parliament to form any state, set boundaries, and name a state, set boundaries, and name a state in the Union as defined in Article 1 of the Constitution.
- The power to establish a state's capital is inherent to, and inseparable from, the power conferred upon Parliament under Articles, 2, 3 and 4 of the Constitution of India.
- The matter of establishing the capital of a new state formed by Parliament by law is not covered by any Entry in List-II of the Schedule-VII of the Constitution.
- It is specifically because the capital of a state shall foster the needs of all sections of the society of the state without any political discrimination as to the development of a particular region of such a state.
- Therefore, only the Indian Parliament can, by law, establish the capital of a newly reconstituted state, which after reconstitution and reorganization by enacting a law, under Article 3(a)(c)(d) of the Constitution.
- The current proposal of three capitals in the state has not received the consent of the central government.

## 15 ESSENTIAL MEDICINES

**Context:** An expert committee set up in 2018 to update India's latest list of essential medicines has called on industry and civil society bodies for discussions before it finalises drugs to be included in it.

### More on News

- The **Standing National Committee on Medicines (SNCM)** has called pharmaceutical associations, companies and patient groups to conduct its "first" stakeholder's consultation on the existing **National List of Essential Medicines (NLEM)**.
- **Issues of discussion**
  - Issues of AMR (Antimicrobial resistance) and inclusion and deletion of drugs in the latest NLEM.
  - Inputs on cancer and cardiology medicines that should be a part of the new list.
  - Discussion on the addition of penicillin preparations, which some stakeholders say may be a point of contention as Indian drug makers are highly dependent on Chinese firms for the raw ingredients of such formulations and that the costs of these ingredients have been on the rise.
- **NLEM**
  - It is a list of medicines prepared by the **Ministry of Health and Family Welfare** based on essentiality and made part of the **Drugs Price Control Orders (DPCO)**, 2013 (DPCO 2013) in the form of first Schedule of the DPCO 2013.
  - It is one of the key instruments in healthcare delivery system of a country which inter alia includes accessible, affordable quality medicine at all the primary, secondary, tertiary levels of healthcare.
  - The primary purpose of NLEM is to promote rational use of medicines considering the three important aspects i.e. cost, safety and efficacy.



- Furthermore it promotes prescription by generic names. The list serves as a reference document for correct dosage form and strength for prescribing.
- NLEM of India was prepared and released in 1996. This list was subsequently revised in 2003, 2011 and 2015.

## 16 Anglo-Indians - Nomination Quota and History

**Context:** Recently, Parliament passed the Constitution (126<sup>th</sup> Amendment) Bill, extending reservation for SC/STs but doing away with the provision for nomination of Anglo Indians to Lok Sabha and some state Assemblies.

### About:

- **Article 331** of the Constitution Provides for nomination of two Anglo-Indians to Lok Sabha. It says: "Notwithstanding anything in Article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the people, nominate not more than two members of that community to the House of the People." **The 126th Amendment does away with this.**
- The idea of such nominations is traced to **Frank Anthony**, who headed the All India Anglo-Indian Association. Article 331 was added in the Constitution following his suggestion to Jawaharlal Nehru.
- Article 333 deals with representation of the Anglo-Indian community in Legislative Assemblies. It says: "Notwithstanding anything in Article 170, the Governor of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, [nominate one member of that community to the Assembly]."
- Currently **14 Assemblies have one Anglo-Indian member** each: Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu, Telangana, Uttar Pradesh, Uttarakhand and West Bengal. **The 126th Amendment does away with this as well.**
- According to the 10th Schedule of the Constitution, Anglo-Indian members of Lok Sabha and state Assemblies can take the membership of any party within six months of their nomination. But, once they do so, they are bound by their party whip. The Anglo-Indian members enjoy the same powers as others, but they cannot vote in the Presidential election because they are nominated by the President.

### Who are Anglo-Indians?

- The Anglo-Indian community in India traces its origins to an official policy of the British East India Company to encourage marriages of its officers with local women.
- In the present context, Article 366(2) of the Constitution Of India states: "An Anglo-Indian means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only..."

## 17 Eighth Schedule

**Context:** A case for including Tulu in the Eighth Schedule.



**About:**

- Tulu is a Dravidian language whose speakers are concentrated in two coastal districts of Karnataka and in Kasaragod district of Kerala. Kasaragod district is called 'Sapta bhasha Samgama Bhumi (the confluence of seven languages)', and Tulu is among the seven.
- The present-day Tulu linguistic majority area is confined to the region of Tulu Nadu, which comprises the districts of Dakshina Kannada and Udupi in Karnataka and the northern part of Kasaragod district of Kerala up to the river Payaswani, or Chandragiri. The cities of Mangaluru, Udupi and Kasaragod are the epicentres of Tulu culture.
- Efforts are being made to include Tulu in the Eighth Schedule of the Constitution. If included in the Eighth Schedule, Tulu would get recognition from the Sahitya Akademi.
- Article 29 of the Constitution provides that a section of citizens having a distinct language, script or culture have the right to conserve the same.
- As per Articles 344(1) and 351 of the Indian Constitution, The Eighth Schedule to the Constitution of India lists the official languages of the Republic of India.

## 18 Powers of Speaker under 10<sup>th</sup> schedule

**Context:**

- The Supreme Court has recently held that disqualification petitions under the tenth schedule should be adjudicated by a mechanism outside Parliament or Legislative Assemblies.
- The Court has suggested a permanent tribunal headed by a retired Supreme Court judge or a former High Court Chief Justice as a new mechanism. This would require an amendment to the Constitution.

**Background:**

- The suggestion for devising an independent mechanism to deal with disqualification pleas against lawmakers came in a judgment by which the top court asked the Manipur assembly speaker to decide within four weeks the plea of a Congress leader seeking disqualification of BJP lawmaker and Manipur forest minister T.H. Shyamkumar.

**Need for independent mechanism:**

- Currently, disqualification of members of a House/Assembly is referred to the Speaker of the House/Assembly. But, speaker also belongs to a political party.
- The Court held that only swift and impartial disqualification of defectors would give "real teeth" to the Tenth Schedule.

**What has the court said on time frame to decide?**

- The Speakers should decide Tenth Schedule disqualifications within a "reasonable period". What is 'reasonable' would depend on the facts of each case. The Court held that unless there are "exceptional circumstances", disqualification petitions under the Tenth Schedule should be decided by Speakers within three months.

**Disqualification under the Tenth Schedule:**

- The Anti-Defection Law was passed in 1985 through the 52nd amendment to the Constitution. It added the Tenth Schedule to the Indian Constitution. According to it, a member of a House belonging to any political party becomes disqualified for being a member of the House, if:
  - He voluntarily gives up his membership of such political party; or

- He votes or abstains from voting in such House contrary to any direction issued by his political party without obtaining prior permission of such party and such act has not been condoned by the party within 15 days.
- An independent candidate joins a political party after the election.
- A nominated member joins a party six months after he becomes a member of the legislature.
- **Exceptions to the disqualification on the ground of defection:**
  - If a member goes out of his party as a result of a merger of the party with another party. A merger takes place when two-thirds of the members of the party have agreed to such merger.
  - If a member, after being elected as the presiding officer of the House, voluntarily gives up the membership of his party or rejoins it after he ceases to hold that office.

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# JUDICIARY

## 1 SENIOR ADVOCATE

**Context:** The Delhi High Court has done away with the previous practice of designating a senior advocate wherein a joint proposal from three senior advocates was required for an advocate to be considered for the post of a senior advocate.

### About::

- **Previous Practice** - Earlier, the rules mandated that three senior advocates designated by Delhi High Court, with not less than five years individual standing at the Bar, as senior advocate, may jointly make a proposal to the High Court for designation of an advocate as a senior advocate.
- **New Practice** - Any advocate who fulfils the eligibility conditions prescribed herein before may submit a written application for being designated as Senior Advocate to the Registrar General.

### Senior Advocates

- These are Advocates who are designated as Senior Advocates **by the Supreme Court of India or by any High Court.**
- The Court can designate any Advocate, with his **consent**, as Senior Advocate if in its opinion by virtue of his ability, standing at the Bar or special knowledge or experience in law the said Advocate is deserving of such distinction.
- A Senior Advocate is **not entitled to appear without an Advocate-on-Record** in the Supreme Court or without a junior in any other court or tribunal in India.
- He is also **not entitled to accept instructions to draw pleadings or affidavits**, advise on evidence or do any drafting work of an analogous kind in any court or tribunal in India or undertake conveyancing work of any kind whatsoever but this prohibition shall not extend to settling any such matter as aforesaid in consultation with a junior.

## 2 PROCESS OF TRIAL OF CRIMINAL CASES IN INDIA

**Context:** The Central Bureau of Investigation arrested former Finance Minister P. Chidambaram soon after he held a press conference at the Congress headquarters refuting all charges against him in the INX Media case.

**About:**

- **Process of Trial of Criminal Cases in India**

- ▶ India has a well-established statutory, administrative and judicial framework for criminal trials. Indian Penal laws are primarily governed by 3 Acts:
  - The Code of Criminal Procedure, 1973 (Cr.P.C.);
  - The Indian Penal Code, 1960 (IPC);
  - The Indian Evidence Act, 1872 (IEA).
- ▶ In order to appreciate the process of Indian criminal law, it is necessary that to understand following important terminology:
- ▶ **Bailable Offence**, means an offence, which has been categorized as bailable, and in case of such offence, bail can be claimed, subject to fulfillment of certain conditions, as **a matter of right** under Section 436 of the Cr.P.C. In case of bailable offences, the Police is authorised to give bail to the accused at the time of arrest or detention.
- ▶ **Non-bailable Offence**, means an offence in which the bail **cannot be granted as a matter of right**, except on the orders of a competent court. In such cases, the accused can apply for grant of bail under Section 437 and 439 of the Cr.P.C. It is important to note that the grant of bail in a non-bailable offence is subject to **judicial discretion of the Court**, and it has been mandated by the Supreme Court of India that **"Bail, not jail" should be the governing and guiding principle**.
- ▶ **Anticipatory Bail**, under Section 438 of the Cr.P.C., means that a person who apprehends **arrest on a wrong accusation** of committing a **non-bailable offence**, can apply before a competent court for a direction to police to **immediately release** such a person on bail in the event of arrest. However, the grant of anticipatory bail is **discretionary** and dependant on the nature and gravity of accusations, the antecedents of the applicant and the possibility of the applicant fleeing from justice.

### 3 Contempt of Court

**Context**

- The Supreme Court has issued notice to the Reserve Bank of India (RBI) on a contempt petition which alleged that the central bank did not provide information sought About: the inspection reports of some banks.
- The contempt notice also alleges that information has not been shared regarding irregularities in the case of Sahara Group of companies under the transparency law.

**About:**

- A bench headed by Justice Nageshwar Rao issued the notice on a petition filed by a Mumbai resident who contended that the RBI had refused to part with the sought information despite apex court rulings on the issue.
- The petitioner has contended that he had sought information under the RTI Act in December 2015 like copies of inspection reports of ICICI Bank, Axis Bank, HDFC Bank and SBI.
- The petitioner has also sought files regarding irregularities detected by RBI in the case of Sahara Group of companies 2011.
- The petition recalled the Supreme Court ruling in a case that RBI is clearly not in any fiduciary relationship with any bank. It has no legal duty to maximise the benefit of any public sector or private sector bank and thus there is no relationship of trust between them.

- RBI ought to act with transparency and not hide information that might embarrass individual banks. It is bound to comply with the provisions of the RTI Act and disclose the information.

### What is contempt of Court?

- As per the Contempt of Courts Act 1971, contempt refers to the offence of showing disrespect to the dignity or authority of a court. The Act divides contempt into civil and criminal contempt.
- Civil contempt refers to the wilful disobedience of an order of any court.
- Criminal contempt includes any act or publication which: (i) 'scandalises' the court, or (ii) prejudices any judicial proceeding, or (iii) interferes with the administration of justice in any other manner.
- 'Scandalising the Court' broadly refers to statements or publications which have the effect of undermining public confidence in the judiciary.

### Some important articles of Indian Constitution

- **Article 129:** The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.
- **Article 142:** Enforcement of decrees and orders of Supreme Court and unless as to discovery, etc
- The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or orders so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe

## 4 Supreme Court Frowns on Foreigners' Tribunals Plan

**Context:** Recently, the Supreme Court questioned a proposal by the Assam government to quickly open 1,000 foreigners' tribunals all over the north-eastern State to try suspected illegal immigrants.

### About:

- The Supreme Court has questioned the feasibility of setting up such foreigner's tribunals and appointed judicial officers to preside over them.
- The CJI hinted at the possible flood of petitions which would hit the foreigners' tribunals once the final NRC was published on July 31. These petitions would be from people who had not been able to prove their Indian citizenship.
- **Foreigners Tribunal (FT)**
  - FT was set up in Assam in 1964 through the Foreigners Tribunal Order 1964. The tribunals are mandated with identifying the legal status of suspected foreigners in Assam.
  - At present, there are 100 FTs in Assam; of these 64 were set up in 2015, to expedite the exercise of determining illegal immigrants in the state through the NRC.
- **IMDT Act**
  - The Illegal Migrants (Determination by Tribunal) Act was an Act of the Parliament of India enacted in 1983 by the Indira Gandhi government. It was struck down by the Supreme Court of India in 2005 in *Sarbananda Sonowal v. Union of India* known as the IMDT Act.
  - Assam also had Illegal Migrants Determination Tribunal which was established in 1985 under the Illegal Migrants (Determination by Tribunal) (IMDT) Act, 1983. This tribunal only considered the cases of those who had allegedly entered India after March 25, 1971.

- ▶ IMDT Act was enacted to put forward the procedures to detect illegal immigrants (from Bangladesh) and expel them from Assam.

### **National Register of Citizens (NRC):**

It is a register which contains the name of all citizens of India residing in Assam. The process of NRC update in Assam has been taken up as per a Supreme Court order in 2013.

## **5 Appointment of the Supreme Court judges**

**Context:** The Supreme Court Collegium had made recommendations to fill four vacancies in the Supreme Court and for appointments of Chief Justices in eight High Courts across the country.

### **About:**

#### • **Evolution of Collegium System**

- ▶ Judges of the Supreme Court and High Courts are appointed by the President under **Articles 124(2) and 217 of the Constitution**.
- ▶ The chief justice is appointed by the president after **consultation** with such judges of the Supreme Court and high courts as he deems necessary. The other judges are appointed by president after **consultation** with the chief justice and such other judges of the Supreme Court and the high court's as he deems necessary. The **consultation** with the chief justice is **obligatory** in the case of appointment of a judge other than Chief justice.
- ▶ The collegium system has its genesis in a series of judgments called "**Judges Cases**". The collegium came into being through interpretations of pertinent constitutional provisions by the Supreme Court in the Judges Cases.
- ▶ In the **First Judges case (1982)**, the Court held that **consultation does not mean concurrence** and it **only implies exchange of views**.
- ▶ But, in the **Second Judges case (1993)**, the Court reversed its earlier ruling and changed the meaning of the word **consultation to concurrence**. Hence, it ruled that the advice tendered by the Chief Justice of India is **binding on the President** in the matters of appointment of the judges of the Supreme Court. But, the Chief Justice would tender his advice on the matter after consulting two of his seniormost colleagues.
- ▶ Similarly, in the **Third Judges case (1998)**, the Court opined that the consultation process to be adopted by the Chief justice of India requires '**consultation of plurality judges**'. The sole opinion of the chief justice of India does not constitute the consultation process. He should consult **a collegium of four seniormost judges of the Supreme Court** and even if **two judges give an adverse opinion**, he should **not send the recommendation** to the government.

## **6 Jurisdiction of High Court**

**Context:** Bureaucrat turned politician Shah Faesal contended that the Delhi High Court has the territorial jurisdiction to hear his habeas corpus plea as he was detained at the IGI Airport and was forcibly taken to Srinagar.

**About:**

- **Jurisdiction of High Court**

- ▶ High Court has original, writ, appellate and supervisory jurisdiction. It also has advisory functions and can advise on matters of law or constitution if state government or governor so desires. Further, it has control over the subordinate courts in the state.
- ▶ **Original Jurisdiction:** In several matters high court has power to hear the dispute in first instance, not by way of appeal. This is called original jurisdiction. Like Supreme Court, high court has original jurisdiction in matters of enforcement of fundamental rights. Further, it has original jurisdiction in matters related to admiralty, will, marriage, divorce, company laws and contempt of court.
- ▶ **Appellate Jurisdiction:** The High Court hears the appeals against the subordinate courts in both civil and criminal matters.
- ▶ **Supervisory Jurisdiction:** High court has the power of superintendence over all courts and tribunals within its territorial jurisdiction except military courts or tribunals. It also has power to transfer the cases from other subordinate courts in the state to itself.

- **Writ Jurisdiction of High Court**

- ▶ **Article 226** of the Constitution empowers a high court to issue writs including **habeas corpus, mandamus, certiorari, prohibition and quo warranto for the enforcement of the fundamental rights of the citizens and for any other purpose.**
- ▶ The **phrase 'for any other purpose'** refers to the enforcement of an ordinary legal right.
- ▶ The high court can issue writs to any person, authority and government not only within its territorial jurisdiction but also outside its territorial jurisdiction if the cause of action arises within its territorial jurisdiction (15<sup>th</sup> Constitutional Amendment Act of 1963).
- ▶ In the Chandra Kumar case (1997), the Supreme Court ruled that the writ jurisdiction of both the high court and the Supreme Court constitute a part of the basic structure of the Constitution. Hence, it cannot be ousted or excluded even by way of an amendment to the Constitution.
- ▶ In **Shah Faesal's Case**, his case is justified because cause of action was happened in Delhi and then he was taken to outside the territory of Delhi

**Habeas Corpus**

- A writ of habeas corpus (which literally means to "produce the body") is a court order demanding that a public official (such as a warden) deliver an imprisoned individual to the court and show a valid reason for that person's detention.
- The writ is not issued where the
  - ▶ detention is lawful
  - ▶ the proceeding is for contempt of a legislature or a court
  - ▶ detention is by a competent court
  - ▶ detention is **outside the jurisdiction of the court.**

## 7 What is Article 142, invoked by SC to give land for a mosque?

**Context:** The Supreme Court, implicitly referring to the demolition of the Babri Masjid at the disputed site, said that it was invoking Article 142 "to ensure that a wrong committed must be remedied".

**About:**

- In granting five acres of land in Ayodhya, but outside the disputed area, to Muslim parties, the Supreme Court used extraordinary powers granted to it by Article 142 of the Constitution.



- "Justice would not prevail if the court were to overlook the entitlement of the Muslims who have been deprived of the structure of the mosque through means which should not have been employed in a secular nation committed to the rule of law".
- The Constitution postulates the equality of all faiths. Tolerance and mutual co-existence nourish the secular commitment of our nation and its people.

### About: Article 142

- Article 142 provides for the enforcement of decrees and orders of Supreme Court.
- Article 142(1) states that Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it and the orders shall be enforceable throughout the territory of India.
- Article 142(2) states that Supreme Court shall have the power to make any order for the purpose of (a)securing the attendance of any person, (b)the discovery or production of any documents or (c)the investigation or punishment of any contempt of itself.

## 8

### 'SC on Prohibition of Child Marriage Act, 2006'

**Context:** In a recent judgement, the Supreme Court has held that the anti-child marriage law does not intend to punish a male aged between 18 and 21 years for marrying a "female adult".

#### • Supreme Court's stand:

- A Bench led by Justice Mohan M. Shantanagoudar was interpreting **Section 9** of the **Prohibition of Child Marriage Act, 2006**, which says:

***"Whoever, being a male adult above 18 years of age, contracts a child marriage shall be punishable with rigorous imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both."***

- The court said neither does the provision punish a child for marrying a woman nor a woman for marrying a male child.
- The sole objective of the provision is to punish a man for marrying a minor girl. "The intention behind punishing only male adults contracting child marriages is to protect minor girls,"
- The 2006 Act also gives an option for prospective grooms who are between 18 and 21 years old to opt-out of marriages.

### What is the Prohibition of Child Marriage Act, 2006?

The law seeks to **prevent child marriages by making certain actions punishable and by appointing certain authorities responsible for the prevention and prohibition of child marriages.**

#### Definitions under the Act

- "Child" means a person who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.
- "Child marriage" means a marriage to which either of the contracting parties is a child.
- "Minor" means a person who has not attained his majority under the provisions of the Majority Act, 1875. As per the Majority Act, 1875, every person domiciled in India attain the age of majority on his completing the age of eighteen years



- Child marriage is an offence punishable with rigorous imprisonment, which may extend to 2 years, or with fine up to Rs.1 Lakh, or both. The offences under the Act are cognisable and non-bailable.

### Persons who can be punished under the Law include

- Whoever performs, conducts or directs or abets any child marriage.
- A male adult above 18 years marrying a child (Section 9).
- Any person having charge of the child, including – parent or guardian, any member of an organisation or association, promoting, permitting, participating in a child marriage.

## 9 Curative Petition

**Context:** Curative petitions have been filed in the Supreme Court by two convicts in the Nirbhaya case. The petitions come just days after a Delhi sessions court scheduled the execution of the four convicts at Tihar Jail on January 22.

### What is curative petition?

- It is **the last judicial resort available for redressal of grievances in court** which is normally decided by judges in-chamber. It is **only in rare cases that such petitions are given an open-court hearing**.
- The concept of curative petition was first evolved by the Supreme Court of India in the matter of **Rupa Ashok Hurra vs. Ashok Hurra and Anr. (2002)** where the question was whether an aggrieved person is entitled to any relief against the final judgement/order of the Supreme Court, after dismissal of a review petition.
- The Supreme Court in the said case held that **in order to prevent abuse of its process and to cure gross miscarriage of justice, it may reconsider its judgements in exercise of its inherent powers**. For this purpose, the Court has devised what has been termed as a “curative” petition. **To entertain the curative petitions, the Supreme Court has laid down certain specific conditions:**
  - ▶ The petitioner will have to establish that there was a genuine violation of principles of natural justice and fear of the bias of the judge and judgement that adversely affected him.
  - ▶ The petition shall state specifically that the grounds mentioned had been taken in the review petition and that it was dismissed by circulation.
  - ▶ The petition is to be sent to the three senior most judges and judges of the bench who passed the judgement affecting the petition, if available.
- If the majority of the judges on the above bench agree that the matter needs hearing, then it would be sent to the same bench (as far as possible) and the court could impose “exemplary costs” to the petitioner if his plea lacks merit.

**Constitutional provisions in this regard: Article- 137 of the Constitution** subjects to the provisions of the guidelines made under **Article 145**, by which it is clear that the Supreme Court has the ability to review any judgment declared by it.

## 10 Debts Recovery Tribunals

**Context:** The Direct Tax Vivaad se Vishwas Bill, 2020 will now cover pending litigation in debt recovery tribunals (DRTs) as well besides those in various courts and tribunals, the Union cabinet said while approving the change to the bill.

**Powers and functions:**

- The Debts Recovery Tribunal (DRT) enforces provisions of the Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993 and also Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests (SARFAESI) Act, 2002.
- The Debts Recovery Tribunal (DRT) are fully empowered to pass comprehensive orders and can travel beyond the Civil procedure Code to render complete justice. A Debts Recovery Tribunal (DRT) can hear cross suits, counter claims and allow set offs.
- However, a Debts Recovery Tribunal (DRT) cannot hear claims of damages or deficiency of services or breach of contract or criminal negligence on the part of the lenders. In addition, a Debts Recovery Tribunal (DRT) cannot express an opinion beyond its domain, or the list pending before it.
- The Debts Recovery Tribunal can appoint Receivers, Commissioners, pass ex-parte orders, ad-interim orders, interim orders apart from powers to Review its own decisions and hear appeals against orders passed by the Recovery Officers of the Tribunal.

**What are DRTs?**

Debt Recovery Tribunals were established to facilitate the debt recovery involving banks and other financial institutions with their customers. DRTs were set up after the passing of Recovery of Debts due to Banks and Financial Institutions Act (RDDBFI), 1993. Section 3 of the RDDBFI Act empowers the Central government to establish DRTs. Appeals against orders passed by DRTs lie before Debts Recovery Appellate Tribunal (DRAT).

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# CENTRE - STATE RELATIONS

## 1 Centre-state disputes and Article 131

### Context:

- Kerala has become the first state to challenge the Citizenship (Amendment) Act (CAA) before the Supreme Court under Article 131 of the Constitution. Besides, Chhattisgarh government has also filed a suit in the Supreme Court under Article 131, challenging the National Investigation Agency (NIA) Act on the ground that it encroaches upon the state's powers to maintain law and order.

### What is Article 131?

- Under Article 131 of the Constitution, the Supreme Court has original jurisdiction to deal with any dispute between the Centre and a state; the Centre and a state on the one side and another state on the other side; and two or more states.

### Criteria:

- For a dispute to qualify as a dispute under Article 131, it has to necessarily be between states and the Centre, and must involve a question of law or fact on which the existence of a legal right of the state or the Centre depends.
- In a 1978 judgment, *State of Karnataka v Union of India*, Justice P N Bhagwati had said that for the Supreme Court to accept a suit under Article 131, the state need not show that its legal right is violated, but only that the dispute involves a legal question.
- Article 131 cannot be used to settle political differences between state and central governments headed by different parties.

The Supreme Court has **three kinds of jurisdictions: original, appellate and advisory**.

- **Original jurisdiction** refers to the right of the Supreme court to hear a case for the first time.
- Under its **advisory jurisdiction**, the President has the power to seek an opinion from the apex court under Article 143 of the Constitution.
- Under its **appellate jurisdiction**, the Supreme Court hears appeals from lower courts.

## 2 15<sup>th</sup> Finance Commission

**Context:** The ongoing 15<sup>th</sup> Finance commission consultations with states.

**About:**

- **Constituted in November 2017.**
- **Composition:** Nand Kishore Singh (Chairman), Ajay Narayan Jha, Ashok Lahiri, Anoop Singh and Ramesh Chand (part-time member). Shaktikanta Das resigned as a member of the commission after appointed as RBI Governor.
- After the passage of the Fiscal Responsibility and Budget Management Act, 2003, some states still incur revenue deficits, so, the commission would have to either recommend the disbandment of revenue deficit grants, or, would have to recommend ways for further fiscal consolidation
- Commission's job was made harder because of the roll-out of goods and service tax (GST) regime in India, as, it had taken certain powers concerning taxation away from the union and the states, and, had given them to the newly formed GST Council.
- The commission was asked by some MPs to recommend a plan on compensating states which suffered revenue losses after the roll-out of GST. Some parliamentarians also asked the commission to reassess the criteria of classifying a state as 'backwards. Some MPS also want Commission to create a financial buffer against oil prices.

**Background**

**Article 280** provides for a Finance Commission as a quasi-judicial body. It is constituted by the **President every fifth year or even earlier**. It is required to make **recommendations to the President** on the following matters:

- The **distribution of the net proceeds of taxes to be shared between the Centre and the states**, and the allocation between the states, the respective shares of such proceeds. The principles which should govern the grants-in-aid to the states by the Centre (i.e., out of the Consolidated Fund of India).
- The **measures needed to augment the consolidated fund of a state to supplement the resources of the panchayats and the municipalities in the state on the basis of the recommendations made by the State Finance Commission**.
- Any other matter referred to it by the President in the interests of sound finance.
- Till 1960, the Commission also suggested the amounts paid to the States of Assam, Bihar, Orissa and West Bengal in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products.
- The Constitution **envisages the Finance Commission as the balancing wheel of fiscal federalism in India**.

**3****Krishna Water Dispute**

**Context:** Maharashtra, Karnataka to jointly oppose A.P. plea on water-sharing formula

**About: Krishna Water Dispute:**

- A dispute over the sharing of Krishna waters has been ongoing for many decades, beginning with the erstwhile Hyderabad and Mysore states, and later continuing between successors **Maharashtra, Karnataka and Andhra Pradesh**.
- In 1969, the **Krishna Water Disputes Tribunal (KWDT)** was set up **under the Inter-State River Water Dispute Act, 1956**, and presented its report in 1973.

- The Tribunal divided the 2060 TMC (thousand million cubic feet) of Krishna water at 75 per cent dependability into three parts: 560 TMC for Maharashtra, 700 TMC for Karnataka and 800 TMC for Andhra Pradesh. (facts not important)
- The **second KWDT was instituted in 2004.**

### Constitutional Provisions Related to Inter-State River Water Dispute:

- **Article 262 of the Constitution:**

- ▶ Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.
- ▶ Parliament may, **by law provide that** neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as mentioned above.

**Entry 56 of Union List:** The regulation and development of inter-state rivers and river valleys to the extent declared by Parliament to be expedient in the public interest.

- States have been fighting against each other for their '**rightful share of water**' since the first reorganisation of States after Independence.
- Harnessing river water being a State subject, the riparian States are expected to solve issues among themselves. But the states are **reluctant to share water** with any other states.
- Many **development projects** have become a cause of dispute between states like the Polavaram project became the bone of contention between the Telugu-speaking States.
- Excessive **release or blockage of water** sometimes created a situation of flood/drought in other state. For ex.- Odisha has repeatedly claimed that Chhattisgarh either blocks or excessively releases water from its Kalma barrage without prior intimation.

#### Inter-State River Water Disputes (Amendment) Bill, 2019

- The amendments in the Bill will speed up the adjudication of water disputes referred to it.
- A key feature of the Inter-State River Water Disputes Amendment Bill, 2019 is the constitution of a single tribunal with different benches, and the setting up of strict timelines for adjudication.
- Under the proposed law, a retired Supreme Court judge will head the tribunal.
- The tribunal will be mandated to deliver final award in two years and it is proposed that whenever it gives an order, the verdict gets notified automatically.

## 4 Zonal Councils

**Context:** Union Minister for Home Affairs, Amit Shah chaired the 29th meeting of the Northern Zonal Council held at Chandigarh.

- **What are Zonal councils?**

- ▶ **The Zonal Councils are the statutory (and not the constitutional) bodies.** They are established by an Act of the Parliament, that is, States Reorganisation Act of 1956.
- ▶ The act divided the country **into five zones (Northern, Central, Eastern, Western and Southern)** and provided a zonal council for each zone.

- **North-Eastern Council:**

- ▶ In addition to the above Zonal Councils, a North-Eastern Council was created by a separate North-Eastern Council Act of 1971.

- **Its members include Assam, Manipur, Mizoram, Arunchal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim.**
- **Members of the Zonal council:**
  - Home minister of Central government.
  - Chief Ministers of all the States in the zone.
  - Two other ministers from each state in the zone.
  - Administrator of each union territory in the zone.
  - **The home minister of Central government is the common chairman of the five zonal councils.**
  - **Each chief minister acts as a vice-chairman of the council by rotation, holding office for a period of one year at a time.**
  - **Advisers** - One person nominated by the Planning Commission for each of the Zonal Councils, Chief Secretaries and another officer/Development Commissioner nominated by each of the States included in the Zone.
  - Union Ministers are also invited to participate in the meetings of Zonal Councils depending upon necessity.

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# RIGHTS ISSUES

## 1 Press Freedom in India

**Context:** Journalists in Kashmir staged a silent demonstration in Srinagar to protest the ongoing communication blockade in Kashmir. Both national and international media highlighted the increased restrictions on media in Kashmir after August 5<sup>th</sup>.

### About:

- After the scrapping of Special Status and re-organisation of Jammu and Kashmir, it is being reported in **certain sections of media that Journalists are facing increased curbs to perform their professional duties.**
- India has dropped two places on a global press freedom index -2019 to be ranked **140th out of 180** countries brought about by **Reporters Without Borders.**
- The World Press Freedom Index 2019 finds an **increased sense of hostility towards journalists across the world.**
- **The violent attacks in India leading to at least six Indian journalists being killed in the line of their work in 2018**
- **South Asia in general features poorly on the index.**
- **Pakistan and Bangladesh rank below India at 142 and 150 respectively.**
- The number of countries regarded as safe, where journalists can work in complete security, continues to decline, while authoritarian regimes continue to tighten their grip on the media, RSF concludes.
- **Norway is ranked first in the 2019 Index** for the third year running **while Finland has taken second place.** An **increase in cyber-harassment caused Sweden (third) to lose one place.**

### Reporters Without Borders

- **Founded in 1985**
- **Paris-based** Reporters Sans Frontiers (RSF), or Reporters Without Borders, is a **non-profit organisation** that works to **document and combat attacks on journalists around the world.**
- Reporters without Borders has **two primary spheres of activity:** one is focused **on Internet Censorship and the new media** and the other on **providing material, financial and psychological assistance to journalists assigned to dangerous areas.**

- In its 2019 index, RSF finds that hatred of journalists has degenerated into violence, contributing to an increase in fear around the world.

## 2 Sedition cases in India

**Context:** Latest data suggest that the sedition law remains as relevant as ever with sedition arrests increasing in recent years.

### The data:

- The National Crime Records Bureau (NCRB), though, has only been collecting separate data on sedition cases since 2014. In 2014, there were 47 cases of sedition but that number increased to 70 in 2018 (the latest year with available data).
- Compared to other offences, sedition remains a rare crime (it accounts for less than 0.01% of all IPC crimes).
- But within India, some parts are emerging as sedition hotspots. Assam and Jharkhand, for instance, with 37 sedition cases each, account for 32% of all sedition cases between 2014-2018.
- In 2018, there were 1,182 cases registered under UAPA. And almost all these cases (92%) were concentrated in five states (Uttar Pradesh, Jammu and Kashmir, Assam, Jharkhand and Manipur).

### What is Sedition?

Sedition, which falls under Section 124A of the Indian Penal Code, is defined as any action that brings or attempts to bring hatred or contempt towards the government of India and has been illegal in India since 1870.

### Kedarnath Singh vs State of Bihar:

Section 124A has been challenged in various courts in specific cases. The validity of the provision itself was upheld by a Constitution Bench in 1962, in Kedarnath Singh vs State of Bihar.

- That judgment went into the issue of whether the law on sedition is consistent with the fundamental right under Article 19 (1) (a) which guarantees each citizen's freedom of speech and expression.
- The Supreme Court laid down that every citizen has a right to say or write about the government, by way of criticism or comment, as long as it does not "incite people to violence" against the government established by law or with the intention of creating public disorder.

### Why sedition law should be repealed?

- Sedition leads to a sort of unauthorised self-censorship, for it produces a chilling effect on free speech. It suppresses what every citizen ought to do in a democracy — raise questions, debate, disagree and challenge the government's decisions. Sedition systematically destroys the soul of Gandhi's philosophy that is, right to dissent.

## 3 Creamy layer principle in SC, ST quota for promotion

**Context:** Recently, government has sought review of SC judgment that creamy layer should be applied to SC/ST.



**About:**

- The union government has called upon the Supreme Court to form a seven judge Bench to reconsider the formulation in **M. Nagaraj vs Union of India (2006)** that creamy layer should be applied to the SC and ST communities.
- The Supreme Court in **M. Nagaraj v. Union Of India 2006** case while upholding the constitutional validity of Art 16(4A) held that any such reservation policy in order to be constitutionally valid shall satisfy the following three constitutional requirements:
  - ▶ The SC and ST community should be socially and educationally backward.
  - ▶ The SC and ST communities are not adequately represented in Public employment.
  - ▶ Such reservation policy shall not affect the overall efficiency in the administration.
- In **Jarnail Singh vs Lachhmi Narain Gupta case of 2018**, Supreme Court holds that reservation in promotions does not require the state to collect quantifiable data on the backwardness of the Scheduled Castes and the Scheduled Tribes.
- The Court held that creamy layer exclusion extends to SC/STs and, hence the State cannot grant reservations in promotion to SC/ST individuals who belong to the creamy layer of their community

**Constitutional Provisions Governing Reservation in India**

- **Part XVI** deals with reservation of SC and ST in Central and State legislatures.
- **Article 15(4) and 16(4)** of the Constitution enabled the State and Central Governments to reserve seats in government services for the members of the SC and ST.
- The Constitution was amended by the Constitution **(77th Amendment) Act, 1995** and a new clause **(4A) was inserted in Article 16** to enable the government to provide reservation in promotion.
- Later, **clause (4A) was modified by the Constitution (85th Amendment) Act, 2001** to provide consequential seniority to SC and ST candidates promoted by giving reservation.
- Constitutional **81st Amendment Act, 2000 inserted Article 16 (4 B)** which enables the state to fill the unfilled vacancies of a year which are reserved for SCs/STs in the succeeding year, thereby nullifying the ceiling of fifty percent reservation on total number of vacancies of that year.
- **Article 330 and 332** provides for specific representation through reservation of seats for SCs and STs in the Parliament and in the State Legislative Assemblies respectively.
- **Article 243D** provides reservation of seats for SCs and STs in every Panchayat.
- **Article 233T** provides reservation of seats for SCs and STs in every Municipality.
- **Article 335** of the constitution says that the claims of STs and STs shall be taken into consideration constitutively with the maintenance of efficacy of the administration.

**4 In Economist's Democracy Index, India at its lowest ranking ever**

**Context:** India slipped 10 places to 51st position in the latest Democracy Index global rankings published by The Economist Intelligence Unit.

**About**

- The score, down from 7.23 in 2018 to 6.90 in 2019, is its lowest ever since the Democracy Index was begun in 2006.
- The report ranks 165 independent states and two territories, covering almost the entire population of the world.

- **Major causes for decline in the rank**

- ▶ The primary cause of the democratic regression was an erosion of civil liberties in the country.
- ▶ It mentioned the stripping of Jammu and Kashmir's special status with the repeal of Articles 370 and 35A, the various security measures that followed the bifurcation of the state including restriction of Internet access, and the exclusion of 1.9 million people from the final NRC (National Register of Citizens) in Assam.
- ▶ "Civil liberties" is one of five categories on which the Democracy Index is based.
- The other four are electoral process and pluralism; functioning of government; political participation; and political culture.
- On a scale of 0 to 10, India's scores were 8.67 in electoral process and pluralism, 6.79 in functioning of government; 6.67 in political participation; 5.63 in political culture; and 6.76 in civil liberties.

## 5 Internet Shutdowns

**Context:** The Supreme Court gave a landmark judgement on the internet shutdown in Kashmir. The court ruled indefinite internet shutdown in Kashmir unwarranted and amounting to abuse of power.

### About

- **Internet shutdown in Kashmir:** The government had imposed a communications lockdown in Jammu & Kashmir since August 2019.
  - ▶ The shutdown which lasted **more than 150 days** is the longest such outage in any democracy.
  - ▶ The shutdown was aimed to control unrest after abrogating **Article 370** of the Constitution.
  - ▶ Mobile phone connections were also cut, but have been restored in most places.
- **Other cases of internet shutdown:** The Centre has frequently used internet shutdowns as a tool to quell dissent in troubled parts of the country.
  - ▶ Internet was curbed in parts of the National capital and in areas of Assam and Uttar Pradesh as protests raged against a new citizenship law.
  - ▶ There have been at least 381 documented instances of internet shutdown in India in the last nine years; 319 of those cases have occurred since 2017.
  - ▶ In matter of internet shutdown, India is deemed third worst-hit after Iraq and Sudan.
- **Challenging government decision:** Government's decision was challenged by Journalist Anuradha Bhasin and politician Ghulam Nabi Azad.
  - ▶ Finally, a 130-page judgment was delivered in this regard by Justice N.V. Ramana, R. Subhash Reddy and B.R. Gavai.

## 6 Private Property is a Human Right: SC

**Context:** In a recent judgement, the Supreme Court held that "a citizen's right to own private property is a human right" and the state cannot take possession of it without following due procedure and authority of law.

**About Human Rights:**

- Human rights are based on dignity, equality and mutual respect – regardless of nationality, religion or beliefs.
- Simply put, Human Rights are those minimal rights which every individual must have against the State or other public authority by virtue of his being a 'member of the human family', irrespective of any other consideration.
- These basic human rights are:
  - **Universal:** They belong to all (everybody in the world)
  - **Inalienable:** They cannot be taken away from the people
  - **Indivisible and interdependent:** Governments should not be able to pick and choose which are respected.
  - **Human Rights can be violated:** Although they are inalienable, they are not invulnerable. Violations can stop people from enjoying their rights, but they do not stop the rights from existing.
  - **Essential:** They are essential for freedom, justice, and peace.

**Universal Declaration of Human Rights (UDHR)**

UDHR was the first international agreement which outlined the rights and freedoms everyone is entitled to. It is a historic document on the basic principles of human rights that laid the foundation for human rights protections. India is a signatory to the UDHR.

**KEY FACTS**

- **Right to Property:** Property ceased to be a fundamental right with the **44th Constitution Amendment in 1978**. Nevertheless, Article 300A required the state to follow due procedure and authority of law to deprive a person of his or her private property. Article 300-A of the Constitution of India reads as under:
- **"Persons not to be deprived of property save by authority of law.** No person shall be deprived of his property save by authority of law."
- Thus, right to property is a constitutional right as well as human right, though right to property is no longer a fundamental right and constitutional protection continues in as much as without authority of law, a person cannot be deprived of his property.

**7****What is enemy property in India, and how has the government dealt with it?**

**Context:** A Group of Ministers (GoM) headed by Union Home Minister will monitor the disposal of over 9,400 enemy properties, which the government estimates is worth about Rs 1 lakh crore.

**About**

- In the wake of the India-Pakistan wars of 1965 and 1971, there was migration of people from India to Pakistan.
- Under the Defence of India Rules framed under The Defence of India Act, 1962, the Government of India took over the properties and companies of those who took Pakistani nationality.
- The same was done for property left behind by those who went to China after the 1962 Sino-Indian war.
- The Tashkent Declaration of January 10, 1966 included a clause that said India and Pakistan would discuss the return of the property and assets taken over by either side in connection with the conflict.

- However, the Government of Pakistan disposed of all such properties in their country in the year 1971 itself.

### How did India deal with enemy property?

- The Enemy Property Act, enacted in 1968, provided for the continuous vesting of enemy property in the Custodian of Enemy Property for India.
- Some movable properties too, are categorised as enemy properties.
- In 2017, Parliament passed The Enemy Property (Amendment and Validation) Bill, 2016, which amended The Enemy Property Act, 1968, and The Public Premises (Eviction of Unauthorised Occupants) Act, 1971.
- The amended Act expanded the definition of the term “enemy subject”, and “enemy firm” to include the legal heir and successor of an enemy, whether a citizen of India or a citizen of a country which is not an enemy; and the succeeding firm of an enemy firm, irrespective of the nationality of its members or partners.
- The Custodian, with prior approval of the central government, may dispose of enemy properties vested in him in accordance with the provisions of the Act, and the government may issue directions to the Custodian for this purpose.

## 8

### “Unparliamentary” speech and conduct in Parliament

**Context:** In recent times, few instances of heated exchanges in Parliament have brought back recurring questions around ‘unparliamentary’ speech and conduct.

#### What are Unparliamentary expressions?

- There are phrases and words, literally in thousands, both in English and in other Indian languages, that are “unparliamentary”.
- The Lok Sabha Secretariat has brought out a bulky tome titled ‘**Unparliamentary Expressions**’, the 2004 edition of which ran into 900 pages.
- The list contains several words and expressions that would probably be considered rude or offensive in most cultures; however, it also has stuff that is likely to be thought of as being fairly harmless or innocuous.
- The state legislatures too are guided mainly by the same book, which also draws heavily from unparliamentary words and phrases used in the Vidhan Sabhas and Vidhan Parishads of India.

#### Who is responsible to keep such word out?

- The Presiding Officers, Speaker of Lok Sabha and Chairperson of Rajya Sabha, have the job of keeping these bad words out of Parliament’s records.
- Under Rule 380 of the **Rules of Procedure and Conduct of Business in Lok Sabha**, the Speaker is vested with the power to order expunction of words which, in the opinion of the Speaker, are defamatory or indecent or unparliamentary or undignified from the proceedings of the House.

#### Do MPs have the freedom to say anything (in the House)?

- While **Article 105(2)** of the Constitution of India lays down that “**no Member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Parliament or any committee thereof**”, MPs do not enjoy the freedom to say whatever they want inside the house.
- **Article 121** prohibits discussion in Parliament with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of the duties except upon a motion for presenting an address to the President for the removal in the manner prescribed.

- Whatever an MP says is subject to the discipline of the **Rules of Parliament**, the “good sense” of Members, and the control of proceedings by the Speaker.
- These checks ensure that MPs cannot use “defamatory or indecent or undignified or unparliamentary words” inside the House.
- **Rule 380 (“Expunction”)** of the Rules of Procedure and Conduct of Business in Lok Sabha says: “If the Speaker is of opinion that words have been used in debate which is defamatory or indecent or unparliamentary or undignified, the Speaker may while exercising discretion order that such words be expunged from the proceedings of the House.”
- **Rule 381** says: “The portion of the proceedings of the House so expunged shall be marked by asterisks and an explanatory footnote shall be inserted in the proceedings as follows: ‘Expunged as ordered by the Chair’.”

## 5

## JOB RESERVATIONS, PROMOTION QUOTAS NOT A FUNDAMENTAL RIGHT

### Context:

- The Supreme Court ruled that there is no fundamental right to reservations in appointments and promotions under articles 16(4) and 16(4A) of the Constitution.
- The judgement said that it is settled law that the state cannot be directed to give reservations for appointment in public posts. The order further added that the state is not bound to make a reservation for SCs and STs in matters of promotions. However, if the state wishes to exercise its discretion and make such provision, it has to collect quantifiable data showing ‘inadequacy of representation of that class in public services.’

### Related Constitutional Provisions about Reservation

- Article 16(4) empowers the state to make any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state.
- By way of the 77th Amendment Act, a new clause (4A) was added to Article 16, empowering the state to make provisions for reservation in matters of promotion to Scheduled Caste/Scheduled Tribe employees if the state feels they are not adequately represented in services.

### Key Points from the Ruling

- **Article 16 (4) and 16 (4A)** of the Constitution are in the **nature of enabling provisions, vesting a discretion on the state government to consider providing reservation**, if the circumstances so warrant.
- The **state government cannot be directed to provide reservation for appointment in public posts**. Similarly, the state is not bound to make reservations for Scheduled Castes and Scheduled Tribes in matters of promotions.
- Articles 16 (4) and 16 (4-A) of the Constitution did not confer individuals with a fundamental right to claim reservations in promotion.
- The Articles empower the State to make reservations in matters of appointment and promotion in favour of the Scheduled Castes and Scheduled Tribes only “if in the opinion of the State they are not adequately represented in the services of the State”.
- Thus, the State government has discretion **“to consider providing reservations, if the circumstances so warrant”**.
- However, **if a State wishes to exercise its discretion and make reservation in promotions, it has to first collect quantifiable data showing inadequacy of representation of a class or community in public services**.

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# CONSTITUTIONAL, REGULATORY, QUASI-JUDICIAL & OTHER BODIES

## 1 Delay in Establishment of Human Rights Court

**Context:** The Supreme Court has recently asked from the Union government, States and the Union Territories administration on the prolonged delay observed in establishing exclusive human rights courts in each district.

### About:

- India is a party to **International Covenant on Civil and Political Rights** and the **International Covenant on Economic, Social and Cultural Rights** adopted by the General Assembly of United Nations on 16 December, 1966.
- The **Human Rights Act** calls for establishment of special courts in each district to deal with the cases related to the abuse of human rights.
- Such Courts have been established in many states which are inclusive of Andhra Pradesh, Tamil Nadu, Sikkim, Uttar Pradesh and Assam.
- **Section 30 of the Act** envisages that a State government, with the **concurrence of the Chief Justice of High Court**, by notification, specify **for each district a court of session** as a court of human rights for the speedy **trial of violation of rights**.
- **Section 31 of the Act** provides the State government to specify and **appoint a special public prosecutor in that court**.
- **Section 2 of the Protection of Human Rights Act, 1993** - "Human Rights" means the 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.
- **Section 21 of the act** provides for establishment of **state Human Rights Commission** headed by Chairperson who shall be retired Chief justice of a High Court, there shall be one other member who shall be a judge either in High Court or district Court.
- The State Commission shall inquire only into matters listed in List II and List III of seventh schedule.

### National Human Rights Commission (NHRC)

- It was established in 1993 under a legislation enacted by the Parliament, namely, the Protection of Human Rights Act, 1993.
- It is a statutory body.
- In 1993, the UN General Assembly adopted the Paris Principles on Human Rights. This led to the constitution of national human rights institutions in almost every country.
- The commission is a multi-member body consisting of a chairman and four members.
- The commission's headquarters is at Delhi and it can also establish offices at other places in India.

- The chairperson and members are appointed by the governor on the recommendations of a committee consisting of the chief minister as its head, the speaker of the legislative assembly, the state home minister and the leader of opposition in the legislative assembly.

## 2

## National Commission for Scheduled Tribes recommends tribal area status for Ladakh

**Context:** The National Commission for Scheduled Tribes (NCST) recommended that, Ladakh should be declared as a tribal area under the Sixth Schedule of the Constitution.

### Background:

- On August 5, the Centre revoked Article 370 which provided special status to Jammu and Kashmir.
- The state of Jammu and Kashmir was bifurcated into two Union territories, Jammu and Kashmir, and Ladakh, which will come into existence on October 31.

### • Why National Commission for Scheduled Tribes (NCST) recommended tribal area status for Ladakh?

- The newly created Union Territory of Ladakh is predominantly a tribal region in the country.
- The Scheduled Tribe population represent 66.8 percent in Leh, 73.35 percent in Nubra, 97.05 percent in Khalsti, 83.49 per cent in Kargil, 89.96 per cent in Sanku and 99.16 per cent in Zaskar areas of the Ladakh region.
- The official figures, however, does not include a number of communities including Sunni Muslims in the region, who are claiming for Scheduled Tribe status. Taking into account this, the total tribal population in Ladakh region is more than 97 percent.
- The Commission noted that prior to creation of Union Territory of Ladakh, people in Ladakh region had certain agrarian rights including right on land which restricted people from other parts of the country to purchase or acquire land in Ladakh.
- Similarly, the Ladakh region has several distinct cultural heritages by communities which need to be preserved and promoted.

Tribal Areas of Glance (2016)	
States	Tribal Areas
<b>Assam</b>	<ul style="list-style-type: none"> <li>◦ The North Cachar Hills District.</li> <li>◦ The Karbi Anglong District</li> <li>◦ The Bodoland Territorial Areas District</li> </ul>
<b>Meghalaya</b>	<ul style="list-style-type: none"> <li>◦ Khasi Hills District</li> <li>◦ Jaintia Hills District</li> <li>◦ The Garo Hills District</li> </ul>
<b>Tripura</b>	<ul style="list-style-type: none"> <li>◦ Tripura Tribal Areas District</li> </ul>
<b>Mizoram</b>	<ul style="list-style-type: none"> <li>◦ The Chakma District.</li> <li>◦ The Mara District.</li> <li>◦ The Lai District.</li> </ul>

### • Which are the inhabiting scheduled tribes in the region?

The region is inhabited by following Scheduled Tribes:

- Balti
- Beda



- Bot, Boto
  - Brokpa, Drokpa, Dard, Shin
  - Changpa
  - Garra
  - Mon
  - Purigpa.
- **What are the benefits of declaring a region as a tribal area?**

Declaring an area as a tribal area will help in:

    - Democratic devolution of powers.
    - Preserve and promote distinct culture of the region.
    - Protect agrarian rights including rights on land.
    - Enhance transfer of funds for speedy development of the region.
  - **What is in the sixth schedule of the constitution?**
    - The Sixth Schedule provides for the administration of tribal areas after setting up autonomous district and regional councils.
    - Sixth Schedule empowers Parliament to amend any provisions of the schedule
    - Sixth schedule contains special provisions for the administration of tribal areas in the four north-eastern states of Assam, Meghalaya, Tripura and Mizoram.
  - **Articles Related to Scheduled and Tribal Areas:**
    - **Article 244:** Administration of Scheduled Areas and Tribal Areas.
    - **Article 244A:** Formation of an autonomous state comprising certain tribal areas in Assam and creation of local legislature or Council of Ministers or both therefore.
    - **Article 339:** Control of the Union over the administration of Scheduled Areas and the welfare of Scheduled Tribes.

### 3 Ram Temple trust

#### Context:

- A 15-member trust to oversee the construction of a Ram temple in Ayodhya has been constituted.
- The announcement of a “broad scheme” for developing a Ram Temple and formation of a Trust named ‘Shri Ram Janambhoomi Teertha Kshetra’ was made by the prime minister.
- Composition: There will be a total of 15 members in the trust -- 9 permanent and 6 nominated members.

#### Background:

- This comes in the wake of the Supreme Court, in its judgement on the dispute, asking the Union government to form a trust that can look at the construction and management of the temple.
- **Why a trust?**
  - One of the five suits before the court in the Babri Masjid case was in the name of the deity itself, Sri Ram Lalla Virajman, and of the birthplace, Asthan Shri Ram Janmabhoomi. This suit was founded on the claim that the law recognises both the idol and the birthplace as juridical



entities. The court did not accept the Janmasthan as a juridical entity. It awarded the title of the land to Ram Lalla, to be held by the Trust that the Court said should be set up within three months. This Trust is the Shri Ram Janmbhoomi Teerth Kshetra.

- The court used its powers under Article 142 to direct that “appropriate representation may be given in the Trust to the Nirmohi Akhara”. The Court also said that the scheme to be framed by the Centre should make “necessary provisions” About: the functioning of the Trust or the body, including on matters relating to its management, the powers of the trustees “including the construction of a temple and all necessary, incidental and supplemental matters”. Furthermore, this Trust will get the possession of the inner and outer courtyards along with the rest of the acquired land, which will be managed and developed by the Shri Ram Janmbhoomi Teerth Kshetra.

## 4 Lokpal

**Context:** Anti-corruption ombudsman Lokpal released its logo and motto.

### About:

- The logo is in tricolour representing the national essence of Lokpal.
- A Lokpal is an anti-corruption authority or body of ombudsman who represents the public interest in the Republic of India.
- The current Chairperson of Lokpal is Pinaki Chandra Ghose.
- The Lokpal has jurisdiction over central government to inquire into allegations of corruption against its public functionaries and for matters connected to corruption.
- The Lokpal is responsible for enquiring into corruption charges at the national level while the Lokayukta performs the same function at the state level.

### Powers of the Lokpal

- The Lokpal has jurisdiction to inquire into allegations of corruption against anyone who is or has been Prime Minister, or a Minister in the Union government, or a Member of Parliament, as well as officials of the Union government under Groups A, B, C and D.
- Also covered are chairpersons, members, officers and directors of any board, corporation, society, trust or autonomous body either established by an Act of Parliament or wholly or partly funded by the Union or State government.
- It also covers any society or trust or body that receives foreign contribution above ₹10 lakh
- The Lokpal, however, cannot inquire into any corruption charge against the Prime Minister if the allegations are related to international relations, external and internal security, public order, atomic energy and space, unless a full Bench of the Lokpal, consisting of its chair and all members, considers the initiation of a probe, and at least two-thirds of the members approve it.
- Such a hearing should be held in camera, and if the complaint is dismissed, the records shall not be published or made available to anyone.

### The Lokpal and Lokayuktas Act, 2013

- Lokpal will have power of superintendence and direction over any central investigation agency including CBI for cases referred to them by the ombudsman.
- A high-powered committee chaired by the PM will recommend selection of CBI director. The collegium will comprise PM, leader of opposition in Lok Sabha and Chief Justice of India PM has been brought under purview of the Lokpal, so also central ministers and senior officials.

- Directorate of prosecution will be under overall control of CBI director. At present, it comes under the law ministry.
- Appointment of director of prosecution to be based on recommendation of the Central Vigilance Commission.
- Director of prosecution will also have a fixed tenure of two years like CBI chief.
- Transfer of CBI officers investigating cases referred by Lokpal with the approval of watchdog.
- Bill incorporates provisions for attachment and confiscation of property acquired by corrupt means, even while prosecution is pending.

## 5 National Company Law Appellate Tribunal (NCLAT)

**Context:** Recently, National Company Law Appellate Tribunal (NCLAT) has reinstated Cyrus Mistry as chairman of Tata Sons.

### About:

- National Company Law Appellate Tribunal (NCLAT) was constituted under **Section 410 of the Companies Act, 2013** for hearing appeals against the orders of National Company Law Tribunal(s) (NCLT), with effect from 1st June, 2016.
- **Hon'ble Justice Shri S.J. Mukhopadhyaya**, former Judge of the Supreme Court, is now the Chairperson of NCLAT.

### Functions:

- NCLAT is also the Appellate Tribunal for hearing appeals against the orders passed by NCLT(s) under Section 61 of the Insolvency and Bankruptcy Code, 2016 (IBC), with effect from 1st December, 2016.
- NCLAT is also the Appellate Tribunal for hearing appeals against the orders passed by Insolvency and Bankruptcy Board of India under Section 202 and Section 211 of IBC.
- NCLAT is also the Appellate Tribunal to hear and dispose of appeals against any direction issued or decision made or order passed by the Competition Commission of India (CCI) – as per the amendment brought to Section 410 of the Companies Act, 2013 by Section 172 of the Finance Act, 2017, with effect from 26th May, 2017.

### Composition:

- The President of the Tribunal and the chairperson and Judicial Members of the Appellate Tribunal shall be appointed after consultation with the Chief Justice of India.
- The Members of the Tribunal and the Technical Members of the Appellate Tribunal shall be appointed on the recommendation of a Selection Committee consisting of:
  - Chief Justice of India or his nominee—Chairperson.
  - A senior Judge of the Supreme Court or a Chief Justice of High Court— Member.
  - Secretary in the Ministry of Corporate Affairs—Member.
  - Secretary in the Ministry of Law and Justice—Member.
  - Secretary in the Department of Financial Services in the Ministry of Finance— Member.

## 5 Indian Railway Management Service (IRMS)

**Context:** Cabinet has approved the merger of its eight services into one - the Indian Railway Management Service (IRMS). The decision to merge the services is to ensure that officers put railways first instead of their service which had become the case under the present system. This is in line with the recommendations of numerous committees, notably Rakesh Mohan (2001) and the Bibek Debroy panel (2015).

- **Railway Board composition:**

- The Chairman along with four members responsible for infrastructure, operations and business development, rolling stock and finance respectively will form the Railway Board.

- **Roles and functions:**

- The Chairman shall be the cadre controlling officer responsible for Human Resources (HR) with assistance from a DG (HR).
- The Board will also have some independent non-executive members, who will be highly distinguished professionals with deep knowledge and 30 years of experience including at the top levels in industry, finance, economics and management fields. The independent members will help Railway Board in setting a strategic direction.

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# ELECTIONS

1

## Electronically Transmitted Postal Ballot System (ETPBS)

**Context:** ETPBS recorded 60.14% turnout in 2019.

### About:

- In 2019 elections, a record highest number of 18,02,646 were enrolled as Service Electors as compared to 13,27,627 number of registered Service Electors in 2014.
- In the seven phases of elections, a total of 18,02,646 postal ballots were dispatched electronically using the flagship IT programme – ETPBS of Election Commission of India.
- In return 10,84,266 e-postal ballots were received indicating 60.14% turnout.

### About: ETPBS

- ETPBS is a **flagship programme of Election Commission of India (ECI)** developed with the help of **Centre for Development of Advanced Computing (C-DAC)**.
- By this, the service voters were sent postal ballots electronically in a one way to save processing time, resources and avoid human errors.

### Class of Electors who are eligible for ETPBS

- Service Voters, other than those who opt for proxy voting (Classified Service Voters)
- The wife of a Service Voter who ordinarily resides with him
- Overseas Voters

#### Who are service voters?

- In cases of close contests, service voters play crucial and decisive role.
- Service voter are those who have service qualification. They include member of Armed Forces of the Union of India, members of Armed Police forces of the States serving outside that state and persons employed under Government of India on posts outside India.
- As per existing arrangements, members of India Army, Navy and Air force, Boarder Road Organisation, BSF, ITBP, Assam Rifles, NSG, CRPF, CISF and SSB are eligible to be registered as service voters.
- A Service Voter can cast his/her vote by proxy also. They may appoint (By applying to returning officer in Form 13 F available at the website of ECI) any person as his/her proxy to cast vote on his/her behalf in his/her at the polling station.
- Proxy should be a registered voter of that constituency.

## 2 Electoral Bonds

### Context:

- FinMin recently dropped plan to discuss electoral bonds with the Opposition.
- Both the Election Commission and the Reserve Bank of India had objected to several provisions of the scheme on the grounds that they would promote black money and money.

### About: Electoral Bonds:

- It is like a promissory note that can be bought by any Indian citizen or company incorporated in India from select branches of State Bank of India. The citizen can then donate the same to any eligible political party of his/her choice.
- **Who can receive electoral bonds?**
  - ▶ Issued in multiple values of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh and Rs 1 crore, these bonds can only be encashed by political parties, which had secured at least 1 per cent of the votes polled in the most recent Lok Sabha or state election.
  - ▶ Monies received from electoral bonds will be deposited in a bank account verified by the Election Commission. All the transactions for electoral bonds can be done only through that account.
- **Will it be tax deductible?**
  - ▶ Donations will be tax deductible, and the benefitting political party will get a tax exemption for the amount received.
- **Are foreign companies registered in India eligible for contributing political parties through bonds?**
  - ▶ The amended Companies Act now allows any foreign company registered in India to make contributions through bonds to political parties, subject to legitimate doubts About: who or where its real owners are, or what its source of funding is.

## 3 Political Parties Registration Tracking Management System (PPRTMS)

**Context:** The Election Commission of India (ECI) launched the Political Parties Registration Tracking Management System (PPRTMS) to help the applicants keep a track of their applications for the party registration from this year onwards.

### More on News:

- The salient feature in the PPRTMS is that the applicant, who is applying for party registration from January 1, 2020, will be able to track the progress of his or her application and will get the status update through SMS and e-mail.
- Registration of political parties is governed by the provisions of Section 29A of the Representation of the People Act, 1951.
- The Commission in the month of December, 2019, has amended the guidelines registration of political party for the information of the general public. The new guidelines is effective from 1st January, 2020.

## 4 National Voters' Day 2019

### Context:

- India celebrated the 9th National Voters' Day on 25th January 2019 at more than 6 lakh locations covering around 10 lakh Polling Stations across the country.
- New Voters were felicitated and handed over their EPIC (Elector Photo Identity Card) in the NVD function.

### About:

#### • Highlights of the DAY

- National function was organized by Election Commission of India at Manekshaw Centre.
- In view of the upcoming Lok Sabha Election, '**No Voter to be Left Behind**' has been selected as the theme.
- My Vote Matters, a Quarterly Magazine is being launched on the occasion and the first copy shall be presented by the Commission to the Hon'ble President.
- The National Awards for the Best Electoral Practices have been conferred to Officers for outstanding performance in the conduct of elections.
- In addition, awards were given to Civil Societies Organisations and Media Houses who have made outstanding contribution in the field of voter awareness and outreach.
- Chief Election Commissioners and senior officials from Bangladesh, Bhutan, Kazakhstan, Maldives, Russia and Sri Lanka were present at the occasion.

#### • About: the Day

- The National Voters' Day (NVD) is celebrated all over the country on January 25 every year since 2011 to mark the Foundation day of Election Commission of India (January 25, 1950).
- The main purpose of the NVD celebration is to encourage, facilitate and maximize the enrollment, especially for the new voters.
- Dedicated to the voters of the country, the Day is utilized to spread awareness among voters for promoting informed participation in the electoral process.

#### • Right to Vote

- The Indian Constitution has granted the right to vote to all Indian citizens of sound mind above the age of 18, irrespective of an individual's caste, religion, social or economic status. This right is universally granted to all Indians, with a few exceptions.
- No individual can be detained or prevented from voting, unless they fulfil the criteria for disqualification.
- Every voter is allowed one vote only. A voter can vote at the constituency where he has registered himself only.
- Eligible voters have to register themselves in the constituency where they live, upon which they will be issued photo election identity cards (also known as EPIC cards).
- Individuals are not permitted to participate in the electoral process if they have not registered or do not possess a voter ID card.
- All voters have the right to know About: the candidates who are contesting for the elections. This right has been granted to voters under Section 19 of the Indian Constitution.
- This Section empowers voters to seek information pertaining to the election manifesto of the candidates, their total financial worth as also their criminal record, if any.

## 5 VVPATs to be used in Lok Sabha Elections

**Context:** In a move to make the use of EVMs even more fool-proof, the EC has announced that there will be 100 per cent use of Voter Verified Paper Audit Trail (VVPATs) during the upcoming Lok Sabha elections.

### More on News:

- Instructions have been issued already to use VVPAT systems with all the EVMs through which voters can verify their votes during the forthcoming Lok Sabha Elections.
- Leaders of several opposition parties approached the Election Commission on to ensure that 50 per cent EVM results are matched and crosschecked with VVPATs before the declaration of results.

### What are VVPAT machines?

- It is an independent verification printer machine attached to electronic voting machines. It allows voters to verify if their vote has gone to the intended candidate.
- VVPATs are a second line of verification and are most useful in the time when allegations around Electronic Voting Machines' tampering crop up.
- It was first used in 2013 in Nagaland's Noksen Assembly constituency.

### What is Electronic Voting Machine?

- EVMs or electronic voting machines provide the voter with a button for each choice which is connected by a cable to an electronic ballot box.
- An EVM consists of two units--**control unit and balloting unit--and these two are connected by a five-meter cable**. When a voter presses a button against the candidate he/she wishes to vote for, the machine locks itself.
- This EVM can be opened only with a new ballot number. This way, EVMs ensure that one person gets to vote only once.

### What is M3 EVM?

- It's an advanced version of EVM having a Public Key Interface (PKI)-based mutual authentication between various EVM units for identifying a genuine unit, of authorised manufacturer, in the field to ensure that only genuine EVMs can be used for communication within the network.
- Technologically, these are more advanced than the current EVMs, but will be same in terms of operation.

### WHY is India using EVMs?

- Electronic voting machines have been in use in India since 1999. Using EVMs means doing away with paper ballots, and in turn, saving millions of trees from being cut.
- It makes the entire process of voting simpler--a click on the button and your vote is registered.
- EVMs, in the long-run, have turned out to be cost-effective as well. Although the initial cost of an EVM is between Rs 5,000 and Rs 6,000, the machine, on an average, lasts for 15 years.
- These machines don't require electricity and run on batteries. At the same time, the EVMs are lighter and portable compared to the huge ballot boxes.
- And most importantly, EVMs have made the vote-counting process much faster, delivering results in hours as against manual counting of votes which could take days.

## 6 Criminalization of Politics

**Context:** Recently, Supreme Court made it mandatory for political parties to publish, including on official social media pages, details of cases against their candidates and the reasons for selecting them over others.

### What Supreme Court said?

- It is mandatory for political parties (at the Central and State election level) to publish detailed information regarding candidates with pending criminal cases and the reasons for selecting them over others as well as to why other individuals without criminal antecedents could not be selected as candidates.
- Such details have to be published on their websites, one local vernacular newspaper and one national newspaper, on the official social media platforms of the political party, including Facebook and Twitter.
- Details of criminal antecedents of candidates should include nature of the offences, and relevant particulars such as whether charges have been framed, concerned Court, case number etc.
- The reasons as to selection shall be with reference to the qualifications, achievements and merit of the candidate concerned, and not mere “winnability” at the polls.
- These details shall be published within 48 hours of the selection of the candidate or not less than two weeks before the first date for filing of nominations, whichever is earlier.
- The political party concerned shall then submit a report of compliance with these directions with the Election Commission within 72 hours of the selection of the said candidate.
- If a political party fails to submit such compliance report with the Election Commission (EC), EC shall bring such non-compliance by the political party concerned to the notice of the Supreme Court as contempt of Court’s orders/directions.

### Provisions

- Article **102(1) and 191(1)** disqualifies an MP and an MLA respectively on certain grounds.
- **Section 8** of the Representation of People Act, 1951, bans convicted politicians. But those facing trial, no matter how serious the charges, are free to contest elections.

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# CITIZENSHIP

## 1 Citizenship Amendment Bill, 2019

### Context:

- The Union Cabinet has cleared the Citizenship (Amendment) Bill that seeks to grant citizenship to non-Muslim refugees from Pakistan, Bangladesh and Afghanistan if they faced religious persecution there.
- The Act amends the Citizenship Act, 1955, in order to grant Indian nationality to Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who come to India after facing religious persecution in Bangladesh, Pakistan and Afghanistan.

### About::

#### • What is the Citizenship (Amendment) Act?

- ▶ The Act doesn't spell it out clearly, but the fact that it entitles Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians facing religious persecution in the three nations, to seek Indian citizenship, highlights the exclusion of Muslims.
- ▶ This amendment is of the Citizenship Act, 1955 which requires the applicant to have resided in India for 11 of the previous 14 years. The amendment relaxes this requirement from 11 years to six years, for Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from the three nations.

#### How is citizenship acquired in India?

- In India, citizenship is regulated by the Citizenship Act, 1955. The Act specifies that citizenship may be acquired in India through five methods – by birth in India, by descent, through registration, by naturalisation (extended residence in India), and by incorporation of territory into India.

#### • Provisions of the Act across the Country:

- ▶ The Act clarifies that the proposed amendments on citizenship to the specified class of illegal migrants will not apply to certain areas. These are:
  - the tribal areas of Assam, Meghalaya, Mizoram, and Tripura, as included in the Sixth Schedule to the Constitution, and
  - the states regulated by the "Inner Line" permit under the Bengal Eastern Frontier Regulations 1873.
- ▶ These Sixth Schedule tribal areas include Karbi Anglong (in Assam), Garo Hills (in Meghalaya), Chakma District (in Mizoram), and Tripura Tribal Areas District.
- ▶ Further, the Inner Line Permit regulates visit of all persons, including Indian citizens, to Arunachal Pradesh, Mizoram, and Nagaland.

**In context to Overseas Citizens of India:**

- The Act also amends the provisions on registration of Overseas Citizens of India (OCI).
- OCI cardholders are foreigners who are persons of Indian origin.
- For example, they may have been former Indian citizens, or children of current Indian citizens.
- An OCI enjoys benefits such as the right to travel to India without a visa, or to work and study here. At present, the government may cancel a person's OCI registration on various grounds specified in the Act.
- In case of a cancellation, an OCI residing in India may be required to leave the country.
- The Act adds another ground for cancelling OCI registration — violation of any law notified by the central government. However, the Act does not provide any guidance on the nature of laws which the central government may notify.

## 2 National Population Register

The National Population Register (NPR) is a comprehensive identity database to be maintained by the Registrar General and Census Commissioner of India, Ministry of Home Affairs, Government of India (RGI). The objective of creating this identity database is to help in better utilization and implementation of the benefits and services under the government schemes, improve planning and security in the country.

**Legal backing for NPR**

- The NPR is legally grounded in the provisions of the Citizenship Act, 1955. It is mandatory for every usual resident in India to register in the NPR as per Section 14A of the Citizenship Act, 1955, as amended in 2004. A usual resident is defined for the purposes of NPR as a person who has resided in a local area for the past 6 months or more or a person who intends to reside in that area for the next 6 months or more.

**Differences between the UID and NPR**

- **Voluntary vs. Mandatory:** It is compulsory for all Indian residents to register with the NPR, while registration with the UIDAI is considered voluntary.
- **Statute vs. Bill:** The enrolment of individuals for the NPR is legally backed by the Citizenship Act, except in relation to the collection of biometrics, while the UID as proposed a bill which has not been passed for the legal backing of the scheme.
- **Authentication vs. Identification:** The UID number will serve as an authenticator during transactions. The National Resident Card will signify resident status and citizenship.
- **Door to door canvassing vs. centre enrolment:** Individuals will have to go to an enrolment centre and register for the UID, while the NPR will carry out part of the enrolment of individuals through door to door canvassing. Note: Individuals will still have to go to centers for enrolling their biometrics for the NPR scheme.

## 3 National Register of Citizens (NRC)

**Context:** The Assam National Register of Citizens (NRC) final list 2019 of certified Indian citizens in Assam has been released.

**About:**

- The NRC, which was first undertaken in Assam in 1951 and was being updated since 2015, is aimed at detecting and deleting so-called illegal immigrants from citizenship rolls.
- The register is meant to be a list of Indian citizens living in Assam. For decades, the presence of migrants, often called “bahiragat” or outsiders, has been a loaded issue here. Assam saw waves of migration, first as a colonial province and then as a border state in independent India.
- The first National Register of Citizens was compiled in 1951, after the Census was completed that year. The Partition of the subcontinent and communal riots had just triggered vast population exchanges at the border.
- Since 2015, the state has been in the process of updating the 1951 register. One of the stated aims of the exercise is to identify so-called “illegal immigrants” in the state, many of whom are believed to have poured into Assam after the Bangladesh War of 1971.
- In 1979, About: eight years after the war, the state saw an anti-foreigners’ agitation. Assamese ethnic nationalists claimed illegal immigrants had entered electoral rolls and were taking away the right of communities defined as indigenous to determine their political future.
- In 1985, the anti-foreigners’ agitation led by the All Assam Students’ Union came to an end with the signing of the Assam Accord.

**How do the authorities establish citizenship?**

- Most individuals applying for inclusion into the NRC had to prove not only that their ancestors had lived in Assam pre-1971 but also their relationship with the ancestor.
- Then came the verification process. Documents were sent to the original issuing authorities while NRC officials conducted field verification. Once the data was submitted, the applicant’s blood relations were plotted on a family tree.

**What happens to the people left out of the final list?**

- Those who do not make it to the final list will have to appear before the Foreigners’ Tribunals of Assam.
- These quasi-judicial bodies were originally set up under the Illegal Migrants (Determination by Tribunal) Act of 1983.
- In anticipation of a fresh rush of cases after the final list, 1,000 more tribunals are being set up across the state.

**4****Permanent Resident Certificate****Context:**

- Arunachal Pradesh has been recently engulfed into violence after government’s decision to extend the Permanent Residence Certificate eligibility to Deoris, Sonowal, Morans, Adivasis and Mishings.
- The government clarified that the state government was not bringing the bill on PRC but only tabling a report of the Nabam Rebia-led JHPC, which comprises of members and student organisations.

**About:****• What is permanent resident certificate?**

- Permanent resident certificate is a legal document issued to Indian citizens that serves as evidence of residence and is required to be submitted as residential proof for official purpose.

- It enables the citizens to avail various policies and claims made in their particular state.
- **What has the state government proposed?**
  - The BJP-led government in the state is considering issuing the certificate to the six non-APSTs communities living in Namsai and Changlang districts and to the Gorkhas living in Vijaynagar. Amongst those communities are Deoris, Sonowal Kacharis, Morans, Adivasis and Mishings. Most of these communities are recognised as Scheduled Tribes in neighbouring Assam.
  - A Joint High Power Committee (JHPC), after holding discussions with the stakeholders, recommended granting PRC to the six communities, who are not natives of Arunachal Pradesh but have been living in Namsai and Changlang districts for decades.
- **Why are people in Arunachal protesting against PRC?**
  - There is resentment among several community-based groups and organisations in Arunachal Pradesh, who feel the rights and interests of indigenous people will be compromised if the proposal is implemented.

## 5 Proposed changes in definition of NRIs

**Context:** Under proposed changes in the recent budget there is a shift in India's tax policy. It will follow the approach of US, which taxes its citizens irrespective of their tax residence.

### About:

- **Change in definition of tax residence:** Under the changes proposed in budget 2020, an Indian citizen who is not liable to be taxed in any other country or territory shall be deemed to be resident in India.
- **India will have taxation rights:** The way the amendment to the Act is worded suggests that Non-resident Indians (NRIs) working in countries with no income tax liability will have to pay the tax in India.
- It will be taxed only when the income is derived from an **Indian business or profession**.
- **Objective:** The intent is to plug a gap that leaves the India income of an NRI out of the tax net.
- **Current law:** Under current law, the worldwide income of an Indian resident is taxable in India. In the case of NRI, only the income earned in India is taxable.
- **India is world's top recipient of remittances** with its diaspora sending \$79 billion back home in 2018, followed by Mexico and China.
- The new proposal is **yet to be passed in both houses** of the parliament.

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# BILLS & ACT

## 1 Data Protection Bill, 2019

### Context:

- The Personal Data Protection Bill, 2019 has been introduced in Lok Sabha by the Minister of Electronics and Information Technology, Mr. Ravi Shankar Prasad, on December 11, 2019.
- The Bill seeks to provide for protection of personal data of individuals, and establishes a Data Protection Authority for the same.

### About:

#### • About: the Bill:

- The Personal Data Protection bill, drafted by a panel headed by a former Supreme Court judge and submitted to the government last year, is key for how firms including global tech giants Amazon, Facebook, Alphabet's Google and others process, store and transfer Indian consumers' data.
- Broad guidelines on collection, storage and processing of personal data, consent of individuals, penalties and compensation, code of conduct and an enforcement model is likely to be a part of the law.
- Personal data is data which pertains to characteristics, traits or attributes of identity, which can be used to identify an individual.
- The Bill categorises certain personal data as sensitive personal data. This includes financial data, biometric data, caste, religious or political beliefs, or any other category of data specified by the government, in consultation with the Authority and the concerned sectoral regulator.

#### **Data Protection Authority-**

The Bill sets up a Data Protection Authority which may:

- take steps to protect interests of individuals,
- prevent misuse of personal data, and
- ensure compliance with the Bill.
- It will consist of a chairperson and six members, with at least 10 years' expertise in the field of data protection and information technology. Orders of the Authority can be appealed to an Appellate Tribunal. Appeals from the Tribunal will go to the Supreme Court.

#### • Applicability

The Bill governs the processing of personal data by:

- government,

- companies incorporated in India, and
- foreign companies dealing with personal data of individuals in India
- **About: data fiduciary:**
  - A data fiduciary is an entity or individual who decides the means and purpose of processing personal data. Such processing will be subject to certain purpose, collection and storage limitations.
- **About: the Rights of the individual:**

The Bill sets out certain rights of the individual (or data principal). These include the right to:

  - obtain confirmation from the fiduciary on whether their personal data has been processed,
  - seek correction of inaccurate, incomplete, or out-of-date personal data,
  - have personal data transferred to any other data fiduciary in certain circumstances, and
  - restrict continuing disclosure of their personal data by a fiduciary, if it is no longer necessary or consent is withdrawn.
- **Grounds for processing personal data:**
  - The Bill allows processing of data by fiduciaries only if consent is provided by the individual. However, in certain circumstances, personal data can be processed without consent.
  - These include: (i) if required by the State for providing benefits to the individual, (ii) legal proceedings, (iii) to respond to a medical emergency.

## 2

**Consumer Protection Bill 2019**

**Context:** The Parliament had passed the Consumer Protection Bill, 2019 which aims to protect the rights of consumers by establishing authorities for timely and effective administration and settlement of consumers' dispute. The Bill will replace the more than three decades old Consumer Protection Act, 1986.

**Key Provisions of the Bill**

- **Definition**
  - A consumer is defined as a person who buys any good or avails a service for a consideration. It **does not** include a person who obtains a good for resale or a good or service for commercial purpose.
- **Consumer Complaints**
  - The Bill sets up **Consumer Disputes Redressal Commissions** (consumer courts) to hear complaints by the consumers.
  - These Commissions will be set up at **District, State** and **National level**, with pecuniary jurisdiction up to **Rs 1 crore**, **Rs 1 crore to Rs 10 crore**, and **above Rs 10 crore**, respectively.
  - The **District Commissions** will consist of a **President** and at **least two members**. The **State and National Commissions** will consist of a **President** and at **least four members**.
  - Appeals from the District Commissions will be heard by the **State Commission**, and from the State Commission by the **National Commission**. Appeals from the National Commission will be heard by the **Supreme Court**.

- The Commissions will attempt to dispose a complaint within **three months**, if the complaint does not require analysis or testing of commodities. If analysis and testing is required, the complaint will be disposed within a period of **five months**.
- The Bill sets up the **Central Consumer Protection Authority (CCPA)** to promote, protect, and enforce the rights of consumers as a class.
- **Product Liability**
  - The Bill allows a person to make a claim of product liability against a manufacturer, seller, or service provider for any defect in a product or deficiency in a service
- **Unfair contracts**
  - A contract is said to be unfair if it causes significant change in the rights of the consumer like demanding excessive security deposits, imposing a disproportionate penalty for a breach in contract etc.
  - The **State and National Commissions** may determine if the terms of a contract are unfair and declare such terms to be **null and void**.
- **Unfair and restrictive trade practices**
  - An **unfair trade practice** includes making a false statement regarding the quality standard of a good or service or selling of goods not complying with standards etc.
  - A **restrictive trade practice** is one that imposes **unjustified costs or restrictions on consumers**, including delays in supply that lead to increase in price or requiring purchase of certain goods or services as a condition for procuring any other goods or services etc.
  - The **CCPA** may take steps to **prevent and discontinue unfair and restrictive trade practices**.
- **Penalties**
  - If a person does not comply with the orders of the District, State or National Commissions, he may face imprisonment **up to three years**, or a fine **not less than Rs 25,000 extendable to Rs one lakh**, or both.

### 3 Jallianwala Bagh National Memorial (Amendment) Bill, 2019

#### Context

- The Lok Sabha recently passed Jallianwala Bagh National Memorial (Amendment) Bill, 2019 by a voice vote.
- A high-pitched verbal duel over the bill saw ruling National Democratic Alliance members accuse the Congress of holding on to the post despite it being the centenary year of the memorial.

#### Amendments included in the bill:

- The Bill amends the Jallianwala Bagh National Memorial Act, 1951 which was passed to erect a National Memorial in memory of those killed and wounded in the Jallianwala Bagh massacre of over 1,000 people on April 12, 1919.
- Under the provisions of the Act, the trustees of the Memorial include the Prime Minister as Chairperson, the Congress president, the Minister-in-charge of Culture, the Leader of Opposition in Lok Sabha, the Governor and Chief Minister of Punjab, and three eminent persons nominated by the Centre as its members. The bill seeks to remove the Congress president as a permanent member of this trust.
- The bill says that “the Leader of Opposition recognised as such in the House of the People, or where there is no such Leader of Opposition, then the Leader of the single largest Opposition Party in that House” will be on the trust.

- The bill allows the central government to terminate the term of a nominated trustee before the expiry of the period of his term.
- The bill is introduced so that such organizations or trusts could not be politicized and should instead be nationalized.

### Opposition to the bill:

- Some members of the Parliament believe that the only intention of the government is to wipe out history. They say that the stalwarts of the Congress remained in the party, they went to jail, fought for the Independence movement. The museum was built by them; the money was donated by them. Hence Congress president should continue as a permanent member of the trust.
- Some members of the Parliament consider such bills as a waste of Parliament's precious time. They are not of any use for solving the grievances of the common public. It is a trivial issue.

## 4 Official Secrets Act

### Context

- In response to the earlier order of Supreme Court which rejected any independent inquiry in Rafale deal, a fresh petition has been filed to review the courts order.
- The fresh petition is based on the evidences collected from the Defence Ministry of India and those evidences/records come under the Official Secrets Act as per governments stand in the SC.

### About:

- According to the government, these documents (evidences) were stolen or purloined by former or current officers in the ministry of defence.
- These are privileged documents under the Official Secrets Act (OSA) and even can not be accessed through Right to Information Act.

### What about the Right to Information Act?

- Right to Information Act has diluted the scope of the OSA.
- Section 22 of the RTI Act explicitly says it overrides the OSA, i.e., it is not open to the government to deny access to a document demanded through an RTI question, on the basis that it has been marked secret under the OSA.

### What is Official Secrets Act?

- An 'Official Secrets Act' is a generic term that is used to refer to a law designed to keep certain kinds of information confidential, including, but not always limited to, information involving the affairs of state, diplomacy, national security, espionage and other state secrets.
- Across multiple countries, the Official Secrets Acts follow a similar pattern: classifying certain categories of information as "official secrets," and then providing stiff penalties for any sharing, dissemination or publication of such information.

### What are the main features of Indian Official Secrets Act?

- The 1923 Act includes penalties for spying under section 3 of the Act. This section provides for penalties for spying, where if any one approached, inspected, etc. any vicinity or place for making any sketch, plan, model, etc.
- It is liable to be punished under this provision with imprisonment which is maximum 15 years as provided under these provisions.
- The Section 4 of the Act makes the act of communicating or even attempting to communicate with foreign agents, is to be treated as relevant evidence for proving that such person communicating or attempting communication is against the safety or interests of State.



- Section 5 says that, if the person having possession of any secret official code, etc. used such secret stuff in prohibited place or otherwise in the manner which is likely to assist an enemy or otherwise is hazard to sovereignty and integrity of India then such person to be held guilty under this Act.
- Similarly, for all other acts relating to such secret official information which are provided under this provision of Section 5 of the Act are prohibited and if done, then persons doing this are liable to punishment which should include imprisonment and fine.

## 5 Motor Vehicles (Amendment) Bill 2019

**Context:** Parliament has passed the Motor Vehicles (Amendment) Bill 2019 to make Indian roads safer.

### Need of amendment

- **Motor Vehicles Act, 1988** was unable to meet **the needs of rising travel demand, fast-paced motorisation, major shifts in technology and deteriorating road safety.**
- **Last mile connectivity and accessibility** for rising population is an issue.
- **Rural transport** needed a significant reform.
- Rising **road accidents** and related deaths without any
- Rising **corruption** in the transport office.
- Rising **cab aggregators** without any proper guidelines.

### Salient features of the Act are:

- **Road safety:** The bill has increased penalties for traffic violations and offences like juvenile driving, drunken driving, driving without licence, dangerous driving, over-speeding, overloading etc. **Penalty to be increased by 10% every year.**
- **Vehicle Fitness:** The Bill has mandated **automated fitness testing to reduce corruption** for vehicles and introduced penalty for deliberate violation of **safety/ environmental regulations.**
- **Recall of vehicles:** Defective vehicles will be **compulsorily recalled.** The manufacturer will either will reimburse for full cost or replace the defective vehicle.
- **Road Safety Board:** A **National Road Safety Board** will be created to advise the central and state governments on all aspects of road safety and traffic management.
- **Protection of Good Samaritan:** The bill defines 'Good Samaritan' is defined as a person who **renders emergency medical or non-medical assistance** to road accident victims. Guidelines have been **incorporated** to prevent their

## 6 Protection of Children from Sexual Offences (Amendment) Bill, 2019

**Context:** Parliament passed Protection of Children from Sexual Offences (Amendment) Bill, 2019 to protect children from offences such as sexual assault, sexual harassment, and pornography.

**The salient features and the recent amendments are as follows:**

- **Penetrative sexual assault:** It defines “penetrative sexual assault” act as penetrating penis into vagina, mouth, urethra, anus of **child or making a child to do the same** and several other such acts. The **punishment earlier** was imprisonment between **seven years to life, and a fine**.
- The **Bill increases** the minimum punishment from **7 years to 10 years**.
- It **further adds** that if a person commits penetrative **sexual assault on a child below the age of 16 years**, he will be punishable **with imprisonment between 20 years to life, with a fine**.
- **Aggravated penetrative sexual assault:** It defines certain actions as “aggravated penetrative sexual assault” like cases **when a public servant or relative** commits penetrative sexual **assault on a child**. Or if the child becomes pregnant.
  - Assault resulting in death of child, and
  - Assault committed during a natural calamity, or in any similar situations of violence.
- The Bill increases **the minimum punishment from ten years to 20 years**, and the **maximum punishment to death penalty**.
- **Aggravated sexual assault:** It defines actions like touching vagina, penis, anus etc. without penetration without penetration which injures sexual organs or done by the relative of the child.
  - Assault committed during a natural calamity
  - Administering or help in administering any hormone or any chemical substance, to a child for the purpose of attaining early sexual maturity.

**7 Triple Talaq**

**Context:** President Ram Nath Kovind gives assent to triple talaq Bill.

**About:**

- Any pronouncement of ‘talaq’ by a Muslim husband to his wife in any manner, spoken or written, shall be void and illegal.
- Any Muslim husband who communicates the ‘talaq’ orally or in writing may face a punishment up to three years in jail. The punishment may be also extended.
- Despite the presence of general laws in force, if a Muslim man pronounces ‘talaq’ to his wife, then the woman and her children are entitled to receive an allowance for subsistence. Such amount can be determined by a Judicial Magistrate of the First Class.
- Muslim woman is entitled to the custody of her minor children even if her husband has pronounced ‘talaq’ to her.
- The offence pronouncing talaq is cognizable if the Muslim woman, on whom it is pronounced, communicates the information to a police officer.
- The offence is also compoundable, if the Muslim woman insists for the same and the Magistrates allows certain terms and conditions which he may determine.

**8 Central Educational Institutions (Reservation In Teachers’ Cadre) Bill, 2019**

**Context:** Cabinet approves “The Central Educational Institutions (Reservation in Teachers’ Cadre) Bill, 2019”. The New Bill will be introduced in the forthcoming session of Parliament.

**About:**

- **Background:**

- ▶ Last year, the University Grants Commission (UGC) announced that an individual department should be considered as the base unit to calculate the number of teaching posts to be reserved for the Scheduled Caste and Scheduled Tribe candidates.
- ▶ This decision was based on an order of the Allahabad High Court in 2017.
- ▶ However, the bill approved recently introduces a 200-point roster system, as against the 13-point system the Allahabad High Court had ordered.
- ▶ The 200-point roster system makes the university or other educational institution the unit for reservation of posts in direct recruitment in teachers' cadre, not the department.

The Constitution (**One Hundred and Twenty-Fourth Amendment**) Bill, 2019 was introduced and passed by Parliament in January, 2019. The Bill seeks to provide for the advancement of economically weaker sections of citizens. The reservation of up to 10% for "economically weaker sections" in educational institutions and public employment will be in addition to the existing reservation.

- **Aim of the bill:**

- ▶ This decision will address the long standing demands of persons belonging to SCs/STs/SEBCs and ensure their rights envisaged under the Constitution.
- ▶ It will also ensure providing of 10% reservation to EWS.
- ▶ Enhancing the education sector of the country.

- **Impact:**

- ▶ A total of 7000 existing vacancies will be filled through direct recruitment in Teacher's Cadre across the country.
- ▶ Ensure compliance of the Constitutional Provisions of Articles 14, 16 and 21.
- ▶ Ensure full representation of Scheduled Castes/ Scheduled Tribes Socially and Educationally Backward Classes and Economically Weaker Sections in direct recruitment in teachers' cadres.
- ▶ Expected to improve the teaching standards in the higher educational institutions by attracting all eligible talented candidates belonging to SCs/STs/SEBCs/EWS.

## 9 Public Safety Act

**Context:** Recently President of Jammu and Kashmir National Conference and MP, Farooq Abdullah was detained under Public Safety Act hours before the Supreme Court was due to hear a habeas corpus petition filed on his detention.

**About:**

- **The Jammu & Kashmir Public Safety Act, 1978 is a preventive detention law**, under which a **person not below 18 years of age** is taken into custody to prevent him or her from acting in any manner that is prejudicial to "the security of the state or the maintenance of the public order".
- The **law was introduced by Sheikh Abdullah in 1978**. It was brought in to **prevent timber smuggling**, and keep the smugglers in prison.
- Under this law a person can be **detained up to two years without a trial**.

### Protection against Detention under PSA

- The only way the preventive detention order can be challenged is through a habeas corpus petition **filed by relatives of the detained person.**
- **High Court and Supreme Court have the jurisdiction to hear such petitions** and pass a final order seeking quashing of the PSA.
- However, **if the order is quashed, there is no bar on the government passing another detention order under the PSA and detaining the person again.**

### Criticism of PSA

- Wrongful Detentions: According to a report, from 2007 to 2016, over 2400 PSA detention orders were passed, of which About: 58% were quashed by courts.
- Denying Citizens the right to fair trials and justice
- Violation of international Human Rights
- Detention of Minors
- Detention in prisons far from home
- Detention on vague and generic allegations
- Failure of Judiciary:
  - ▶ Ignoring illegal detention
  - ▶ Not holding detaining authorities accountable

10

## The Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019.

**Context:** The Union Cabinet has approved The Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019.

### About::

- It seeks to amend The Maintenance and Welfare of Parents and Senior Citizens Bill, 2007.

### The proposed 'Maintenance and Welfare of Parents and Senior Citizens Amendment Bill' has the following major salient features:

- Definition of "children" and 'parents' has been expanded.
- Definition of 'maintenance' and 'welfare' has been expanded.
- Mode of submission of application for maintenance has been enlarged.
- Ceiling of Rs.10,000/- as maintenance amount has been removed.
- Preference to dispose of applications of senior citizens, above eighty years of age, early has been included.
- Registration of Senior Citizens Care Homes/Homecare Service Agencies etc. have been included.
- Minimum standards for senior citizen care homes has been included in the Bill.
- Appointment of Nodal Police Officers for Senior Citizens in every Police Station and District level Special Police Unit for Senior Citizens has been included.
- Maintenance of Helpline for senior citizens has been included.

## 11 Constitution (126<sup>th</sup> Amendment Bill), 2019

**Context:** Union Minister of Law and Justice introduced the Constitution (126th Amendment Bill) 2019, in the Lok Sabha, that provides to further amend Article 334 of the Constitution proposing to extend the reservation for these marginalised sections for another 10 years.

### More on News:

- The proposed amendment **does away with the reservation provided to the Anglo-Indian community in the Lok Sabha and state legislatures.**
- The need for bringing in the Bill was felt as the **current reservation provision ends on January 26, 2020**, and the government wants to get the approval of parliament ahead of the deadline.
- The Bill **amends provisions related to reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs).**
- The Constitution provides for **reservation of seats for SCs and STs and representation of the Anglo-Indian community by nomination, in Lok Sabha and Legislative Assemblies of states.** This has been provided for a **period of 70 years since the enactment of the Constitution** and will expire on January 25, 2020. The Bill seeks to **extend the reservation for SCs and STs by another 10 years till January 25, 2030.**

## 12 The Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Bill, 2019

**Context:** Recently, a bill for the merger of Union Territories of Dadra and Nagar Haveli and Daman and Diu was introduced in the Parliament by Home Minister.

### About:

- The Bill provides for the merger of the Union Territories (UTs) of Dadra and Nagar Haveli, and Daman and Diu into a single UT.
- Key features of the Bill include:
  - **Amendment of the Constitution:** The First Schedule to the Constitution specifies the territories that come under various states and UTs. The Bill amends the First Schedule to merge the territories of the two UTs: (a) Dadra and Nagar Haveli, and (b) Daman and Diu. The merged territory will form the UT of Dadra and Nagar Haveli and Daman and Diu. This will come into effect from the day notified by the central government.
  - Article 240(1) of the Constitution allows the President to make regulations for certain UTs, including the UTs of Dadra and Nagar Haveli, and Daman and Diu. The Bill amends the Article to replace these two UTs with the merged UT.
  - **Representation in Lok Sabha:** The First Schedule to the Representation of the

### Daman and Diu and Dadra and Nagar Haveli

**These two UTs are located in the western region of India.**

- Daman and Diu are two widely separated districts situated on the southern side of Gujarat. Daman is an enclave on Gujarat's southern coast and Diu encompasses an island off the southern coast of Gujarat's Kathiawar Peninsula. It is in close proximity of the UT of DNH.
- Dadra and Nagar Haveli consists of two separate parts. Dadra is surrounded by the state of Gujarat and Nagar Haveli lies on the borders of Maharashtra and Gujarat.
- Both were colonised by the Portuguese and were liberated in December 1961.

People Act, 1950 provides one seat in Lok Sabha to each of the two UTs. The Bill seeks to amend the Schedule to allocate two Lok Sabha seats to the merged UT.

- ▶ **Jurisdiction of High Court:** The Bill provides that the jurisdiction of the High Court of Bombay will continue to extend to the merged UT.

### Reasons for Merging Two UTs

- Both UTs have two separate constitutional and administrative bodies which lead to a lot of duplicacy, inefficiency and wasteful expenditure.
- The merger will help in achieving the government's goal to have Minimum Government, Maximum Governance.
- Both of them have small population and limited geographical area so the merger will not be challenging and the services of officers will be used efficiently.

## 13 International Financial Services Centres Authority Bill, 2019

**Context:** International Financial Services Centres Authority Bill, 2019 was introduced in Lok Sabha by Union Finance Minister.

### About:

- The Bill provides for the establishment of an Authority **to develop and regulate the financial services market in the International Financial Services Centres in India.**

### Key features of the Bill include:

- It will apply to all International Financial Services Centres (IFSCs) set up under the Special Economic Zones Act, 2005.
- It sets up the **International Financial Services Centres Authority (IFFSCA)**

### • Composition:

- ▶ IFFSCA will consist of **nine members**, appointed by the central government.
- ▶ Members of the Authority will include: (i) the Chairperson, (ii) one member each to be nominated from the Reserve Bank of India (RBI), the Securities and Exchange Board of India (SEBI), the Insurance Regulatory and Development Authority of India (IRDAI), and the Pension Fund Regulatory and Development Authority (PFRDA), (iii) two members from among officials of the Ministry of Finance, and (iv) two members to be appointed on the recommendation of a Search Committee.
- ▶ Members will have a term of **three years**, subject to reappointment.

### • Functions of the Authority:

- ▶ To regulate financial products (such as securities, deposits or contracts of insurance), financial services, and financial institutions which have been previously approved by any appropriate regulator (such as RBI or SEBI), in an IFSC.
- ▶ It will follow all processes which are applicable to such financial products, financial services, and financial institutions under their respective laws.

### What is International Financial Services Centre?

- An international financial services centre caters to customers outside the jurisdiction of domestic economy, dealing with flows of finance, financial products and services across borders.
- Gujarat International Finance Tec-City Co. Ltd is being developed as the country's first international financial services centre (IFSC)

- The appropriate regulators are listed in a Schedule to the Bill and include the RBI, SEBI, IRDAI, and PFRDA. The central government may amend this schedule through a notification.
- The Bill sets up the **International Financial Services Centres Authority Fund**. The following items will be credited to the Fund: (i) all grants, fees and charges received by the Authority, and (ii) all sums received by the Authority from various sources, as decided by the central government. The Fund will be used for: (i) salaries, allowances and other remuneration of members and employees of the Authority, and (ii) expenses incurred by the Authority. Further, the central government may provide grants to the Authority for the regulation of IFSCs.

## 14 National Statistical Commission (NSC) Bill 2019

**Context:** Recently, in the draft National Statistical Commission (NSC) Bill 2019, government proposed a law to reposition NSC as the nodal body for all core statistical activities of the country.

### About:

- Facing criticism over the **credibility and independence of India's official statistics**, the government has through the **draft National Statistical Commission (NSC) Bill 2019** proposed a **statutory 'National Statistical Commission'**.
- The new bill proposes to set up a **full- time NSC**, a **permanent secretariat, dedicated funds and powers** to supervise core statistical products.
- NSC Bill 2019 envisages **financial autonomy for the commission** through an independent '**National Statistical Fund**', but it would be **bound by directions that the Centre will give** time from time.
- The fund will include resources received by NSC through **government grants, fees and charges**.
- **History:** The draft bill draws on the 2011 report of a committee headed by N.R. Madhava Menon.
- The **Menon committee had first recommended the setting up of an audit and assessment wing under NSC**, to be headed by a "Chief Statistical Auditor".
- The draft bill also retains the **regulatory powers over core statistics** that the Menon committee had envisaged.
- India is a follower of the **UN Statistical Commission** led system since 1948.

### National Statistical Commission

- The Government of India through a resolution dated 1st June, 2005 set up the NSC.
- Setting up of the NSC followed Cabinet's decision to accept **recommendations of the Rangarajan Commission**, which reviewed the Indian Statistical System in 2001.
- NSC was constituted with effect from 12th July 2006 with a mandate to **evolve policies, priorities and standards in statistical matters**.
- NSC has four Members besides a Chairperson, each having specialization and experience in specified statistical fields.
- NSC is the apex advisory body on statistical matters, but its **suggestions are not binding on the government**.



## 15 The Draft National Statistical Commission Bill

### Context:

- Draft Bill proposes autonomy for National Statistical Commission which gives government power to make final decision.
- It is put out by Ministry of Statistics & Programme Implementation and is open for public suggestions until 19 January.

### About: the Bill:

- The draft bill is aimed at empowering the National Statistical Commission (NSC) to become the nodal body for all core statistics in the country.
- Core statistics include national income statistics like GDP, jobs data, industry data and budgetary transactions data.

### About NSC:

- The National Statistical Commission (NSC) of India is an autonomous body which was formed in July 2005.
- The objective of its commission is to reduce the problems faced by statistical agencies in the country in relation to collection of data.

### Features of the Bill:

- As per the draft Bill, the NSC will have a Chairperson, five whole time members along with Deputy Governor of Reserve Bank of India (RBI), Chief Statistician of India (CSI) as other members and Chief Economic Advisor, Ministry of Finance, as the ex-officio member.
- The Chairman and the members of the Commission shall be appointed by the central government on the recommendation of a search committee.
- Along with retaining the advisory nature of NSC, the draft Bill states that the decision of the central government, whether a question is of policy or not, shall be final.
- As per the experts, this proposal goes against the long pending demand to grant more powers to the NSC.
- The draft Bill also seeks to change the composition of the Commission by replacing NITI Aayog Chief Executive Officer with the Finance Ministry's Chief Economic Advisor as the ex-officio member along with giving member status to Chief Statistician of India from the current status of secretary to the NSC.
- As per the draft Bill the central government may, from time to time, issue directions to the Commission as it may think "necessary in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality".
- The draft also specifies that the Commission "shall in exercise of its powers or the performance of its functions, be bound by such directions or questions as the Central Government may give in writing to it from time to time".
- The draft Bill states that the government shall seek advice from the Commission on any matter relating to official statistics.
- However, central government or a state government may issue directions as necessary to any government agency under its administrative control along with a report on reasons for not accepting any advice to the commission.
- A report on reasons for not accepting any advice of the commission shall be laid before Parliament or a state legislature for a total period of thirty days.
- The draft Bill states that the NSC shall have power to review the statistical system of any government agency in the light of concepts, definitions, standards, methodologies and established policies, and recommend measures for enhanced performance; to prescribe a code of practice.



- Also, the Commission shall participate in consultation with the central government and coordinate with national statistical organisations on matters of statistical standards, methodologies and classifications.

## 16 Indian Forest Act

**Context:** The Ministry of Environment, Forest and Climate Change (MoEF&CC) has finalised the first draft of the comprehensive amendments to the Indian Forest Act, 1927 (IFA).

**About:**

- Highlights of the Draft:**

- The idea behind this legislation is to facilitate increase of forest cover from About: 24% now to 33% (a stated directive of government policy).
  - Forest is defined to include “any government or private or institutional land recorded or notified as forest/forest land in any government record and the lands managed by government/community as forest and mangroves, and also any land which the central or state government may by notification declare to be forest for the purpose of this Act
  - The amendment defines community as “a group of persons specified on the basis of government records living in a specific locality and in joint possession and enjoyment of common property resources, without regard to race, religion, caste, language and culture
  - “Village forests”, according to the proposed Act, may be forestland or wasteland.
  - It will be the property of the government and would be jointly managed by the community through the Joint Forest Management Committee or Gram Sabha.
  - The legislation has proposed a forest development cess of up to 10% of the assessed value of mining products removed from forests, and water used for irrigation or in industries.
  - This amount would be deposited in a special fund and used “exclusively for reforestation; forest protection and other ancillary purposes connected with tree planting, forest development and conservation.
  - The amendment also introduces a new category of forests — **production forest**. These will be forests with specific objectives for production of timber, pulp, pulpwood, firewood, non-timber forest produce, medicinal plants or any forest species to increase production in the country for a specified period.

### Indian Forest Act, 1927

- The act sought to consolidate and reserve the areas having forest cover, or significant wildlife.
- It also aimed to regulate movement and transit of forest produce, and duty leviable on timber and other forest produce.
- It also defined the procedure to be followed for declaring an area as Reserved Forest, Protected Forest or a Village Forest.
- The act has detailed definition of what a forest offence is, what are the acts prohibited inside a Reserved Forest, and penalties leviable on violation of the provisions of the Act.

## 17 Essential Commodities Act

**Context:** According to Economic Survey 2019-20, Essential Commodities Act is outdated and must go.

**About:**

- Findings in the **Economic Survey 2019-20 were against Essential Commodities Act (ECA)** and other “anachronistic legislations” and interventionist government policies, including drug price control, grain procurement and farm loan waivers.
- ECA to control onion prices:** In September 2019, the Centre invoked the ECA’S provisions to impose stock limits on onions after heavy rains wiped out a quarter of the kharif crop and led to a sustained rise in prices.
- How does ECA work:** Stock limits ensure that onion stocks would be released into the open market and the supply would go up, ensuring prices remain affordable.
- ECA has unintended consequences:** The Survey offers examples of stock limits on onion, sugar and pulses, where ECA intervention had little impact, and instead **increased volatility in prices following production/ consumption shocks** — the opposite of what it is intended for.

**Essential Commodities Act**

- The Essential Commodities Act, 1955 was enacted **to ensure the easy availability of essential commodities to consumers and to protect them from exploitation** by unscrupulous traders.
- The Act provides for the **regulation and control of production, distribution and pricing** of commodities which are declared as essential.
- Essential items under the Act include **drugs, fertilisers, pulses and edible oils, and petroleum and petroleum products**.
- The Act aim at maintaining/increasing supplies/securing **equitable distribution and availability** of these commodities at fair prices.
- Centre invokes the ECA Act’s provisions** to impose stock limits in case of price/quantity distortions in the market to ensure adequate availability of essential commodities at reasonable prices.
- States are the implementing agencies** to implement the EC Act, 1955 and the **Prevention of Black marketing & Maintenance of Supplies of Essential Commodities Act, 1980**, by exercising powers delegated to them.
- The **list of essential commodities is reviewed from time to time** with reference to their production and supply and in consultation with concerned Ministries/Departments.
- Currently, the restrictions like licensing requirement, stock limits and movement restrictions have been **removed from almost all agricultural commodities**.- **Exemptions: Wheat, pulses and edible oils, edible oilseeds and rice** are certain exceptions.
- The recent amendment to the **Legal Metrology (Packaged Commodities) Rules 2011** is linked to the ECA. The Government can fix the retail price of any packaged commodity that falls under the ECA.

**18 SC/ST Amendment Act, 2018****Context**

- The **Supreme Court upheld the constitutional validity** of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2018.
- A three-judge bench, **headed by Justice Arun Mishra**, upheld the amended Act, which said neither is a preliminary inquiry required before lodging an FIR under the Act nor is approval needed from higher authorities for arrests.

- The amendment **also restores the unconditional ban on the grant of anticipatory bail** put in place by the March 2018 judgement of the apex court.
- The Parliament had amended the Act to **nullify a March 2018 apex court judgement that had diluted the provisions of the Act.**

### **Salient Features of the Amendment Act, 2018**

- It added Section 18A to the original Act.
- It delineates specific crimes against Scheduled Castes and Scheduled Tribes as atrocities and describes strategies and prescribes punishments to counter these acts.
- It identifies what acts constitute “atrocities” and all offences listed in the Act are cognizable. The police can arrest the offender without a warrant and start an investigation into the case without taking any orders from the court.
- The Act calls upon all the states to convert an existing sessions court in each district into a Special Court to try cases registered under it and provides for the appointment of Public Prosecutors/ Special Public Prosecutors for conducting cases in special courts.
- It creates provisions for states to declare areas with high levels of caste violence to be “atrocities-prone” and to appoint qualified officers to monitor and maintain law and order.
- It provides for the punishment for wilful neglect of duties by non-SC/ST public servants.
- It is implemented by the State Governments and Union Territory Administrations, which are provided due central assistance.

### **What is 18 A?**

- For the Prevention of Atrocities Act, the preliminary enquiry shall not be required for registration of a First Information Report against any person.
- The provision of section 438 (pre-arrest bail) of the Code of Criminal Procedure (CrPC) shall not apply to a case under the Act, notwithstanding any judgment or order or direction of any Court

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