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CENTRE URGES SC AGAINST DIRECT RELIEF IN SCAM CASES

Why in news?

The Union government filed an affidavit in the Supreme Court suggesting there was a trend of people accused in high-value economic offences approaching the Supreme Court directly — instead of an appropriate court — to get protection from arrest.

Details

- In 44 such instances where economic offenders had approached SC, the court had granted relief to them, significantly affecting the ability of investigative agencies to go about their probes into these cases.
- Large-scale financial frauds, the accused were consciously not resorting to the remedy available under the law — applying to the court of sessions or high court for bail – **under section 438 of the CrPC** (criminal procedure code) or other statutory remedies.
- Instead they approach the Supreme Court directly under **Article 32** of the Constitution for protection from arrest by investigating agencies.
- The grounds cited for claiming such relief is usually that the constitutional validity of the special laws under which action is being taken against them, are under challenge.

Handling the situation

- The Government wanted SC to ask the petitioners to follow the prescribed legal route by appearing before the appropriate lower courts.
- The CJI has asked for a list of such cases heard by different benches and has listed the matter "along with other similar matters".

Anticipatory bail

- Under Indian criminal law, there is a provision for anticipatory bail under Section 438 of the Criminal Procedure Code.
- This provision allows a person to seek bail in anticipation of an arrest on accusation of having committed a non-bailable offence.
- Anticipatory bail is a direction to release a person on bail, issued even before the person is arrested.
- **It is only issued by the Sessions Court and High Court.**
- When any person apprehends that there is a move to get him arrested on false or trumped up charges, or due to enmity with someone, or he fears that a false case is likely to be built up against him, he has the right to move for grant of bail in the event of his arrest, and the court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

ENABLING PEOPLE TO GOVERN THEMSELVES

Why in news?

- The health and economic crisis as a result of COVID 19 pandemic has revealed the inadequacies of the governance structures at various levels.
- Besides the siloed approach towards economic, social and environmental issues has resulted in breakdown of one system while revamping the other.

Issues with current governance structures

- **Flawed Design**
- The COVID 19 pandemic has revealed the design flaw in governance systems which is functioning in silos. This has made it difficult to manage multiple sub-systems like health care, logistics, business, finance, administration etc at the same time
- For instance while the lockdown has managed to contain the health crisis it has resulted in economic crisis
- Within the health system most of the resources are diverted towards managing the epidemic resulting in neglect of other health issues including communicable diseases, maternal health, malnutrition etc.
- **Failure of global governance structures**
- Global governance structures of the post-World War II era like United Nations, WTO etc have failed to respond to the crisis effectively.
- This is elicited response from national and local governments and has thus resulted in countries closing their borders in the changed geopolitical milieu.

A case for alternative approach

- **Systems Approach**
- The SDGs framework lists down 17 interconnected goals for the world which require treating them using the 'systems approach' which emphasises on

1. The need to treat the dependence of one sub system on the other. (economic, social, environmental, political etc)
2. The role of each sub system on survival of the entire system as a whole.

- **Strengthening the local governance structures**

- One of the 8 pillars of Good Governance as given by World Bank is Participatory Governance. (Others being consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and rule of law)
- Though 73rd and 74th amendment acts to the constitution envisaged a government by the people this has not been implemented in the true spirit. For instance the development functions are too concentrated in the office of the collector through institutions like District Rural Development Authority in most of the states.

Thus governance structures at the rural level should evolve as ones which are accountable to representative institutions at the local level. 2nd ARC has recommended the establishment of "District Council" headed by the District Collector fully accountable to the District Council on all local matters.

CHALLENGE OF SCHOOLING INDIA'S OFFLINE MILLIONS

Why in news?

A whopping 1.6 billion young people, or about 90% of the world's student population, were shut out of school and university due to measures to contain covid-19 in the month of April.

Education emergency

9.7 million children are affected by school closures and face the risk of never going back to class,

In addition to the social fallouts, the economic fallout of the crisis could force an extra 90 to 120 million children into poverty, affecting school admission and pushing child labour.

India's situation

- India has one-third of the world's poorest children.
- Alarm bells rang as reports said that less than half of India's seven-year olds could read at grade level.
- A recent report by UNICEF and the International Labour Organization says that the pandemic is likely to undo a 20-year battle against child labour.
- Schools and colleges have been quick to adapt to online learning. However, digital access and connectivity challenges are creating a widening chasm between those who will continue to learn and those who will not.
- Over 31 million children depend on the anganwadi network for early learning, health and nutrition. It is critical that these centres reopen

Way forward

- By adapting to available technologies, like television, radio, mobile phone or even the loudspeaker, it is possible to think creatively and reach the farthest child.
- We must find ways to address this emergency, else our demographic dividend turns into a disaster.

IT'S TIME TO FLATTEN THE PANDEMIC STEREOTYPING

Why in news?

"Super Spreader" means an individual who transmits infection to many others than is typical It emerged in the context of the research on transmission of a wide range of infectious diseases such as tuberculosis, Ebola, and Severe Acute Respiratory Syndrome (SARS), which shows that 80% of the infections in a population are transmitted by only 20% of those infected the so called 20/80 rule

Why Is it difficult to contain the spread?

Challenging aspect of this pandemic has been the large proportion of asymptomatic infected patients who can shed high virus loads before experiencing symptoms and can spread infection to many contacts without their knowledge. Because of this complexity, practices such as universal masking, social distancing, and hand hygiene have become key to containing the pandemic.

Examples of super spreaders

Prominent examples of such groups include those who attended the Tablighi Jamaat religious congregation in Delhi, workers providing essential services (vegetable/fruit vendors, pharmacists, garbage collectors, grocery and milk sellers, bus conductors), and migrant workers returning to their hometowns

Stereotyping

- For example, as vegetable vendors are labelled widely as super spreaders, it becomes a shared belief among sections of the society that they spread virus.
- Further one may attach the images of the stereotype to a random person whose perceived characteristics match that of a member of the stereotyped group
- Stereotyping a group will have undesirable consequences for its individual members, if the label carries negative evaluation
- Research documents a range of negative consequences (direct and indirect) associated with negative stereotyping, such as discrimination and hostility, negative attitudes, and a lingering effect of lack of self- control and aggression
- Incidents of people, particularly Muslims, being harassed for their suspected affiliation with Tablighi Jamaat have been reported

Government support is key

- The Ministry of Health and Family Welfare had urged the citizens to "not label any community or area for the spread of COVID19
- the governments could provide them cost free masks and sanitisers and support the families of infected individuals. Public officials and the media could also refrain from the indiscriminate use of the term super spreaders, when referring to these groups, to avoid the resultant negative stereotyping

WHAT IS PLEA BARGAINING?

Introduction

- Many members of the Tablighi Jamaat belonging to different countries have obtained release from court cases in recent days by means of plea bargaining.
- Accused of violating visa conditions by attending a religious congregation in Delhi, these foreign nationals have pleaded guilty to minor offences and paid the fines imposed by the court, escaping tedious trials.
- These cases have brought the focus on plea bargaining as a practice by which time consuming trials can be avoided.

Plea Bargaining: What is it and how it came to be?

- Plea bargaining refers to a person charged with a criminal offence negotiating with the prosecution for a lesser punishment than what is provided in law by pleading guilty to a less serious offence.
- There has always been a provision in the Code of Criminal Procedure for an accused to plead 'guilty' instead of claiming the right to a full trial, but it is not the same as plea bargaining.

- In India, the concept was not part of law until it was introduced in 2006 as part of a set of amendments to the CrPC.
- Unlike in the U.S. and other countries, where the prosecutor plays a key role in bargaining with the suspected offender, the Indian code makes plea bargaining a process that can be initiated only by the accused.

What are the cases for which Plea Bargaining may be applied for?

- Cases for which the practice is allowed are limited. Only someone who has been charge sheeted for an offence that does not attract the death sentence, life sentence or a prison term above seven years can make use of the scheme.
- It is also applicable to private complaints c
- Other categories of cases that CANNOT be disposed of through plea bargaining are those that involve offences affecting the "socio-economic conditions" of the country, or committed against a woman or a child below the age of 14.

What is the rationale for the scheme? What are its benefits?

- The Justice Malimath Committee on reforms of the criminal justice system endorsed the various recommendations of the Law Commission with regard to plea bargaining.
- Some of the advantages it culled out from earlier reports are that the practice would ensure speedy trial, end uncertainty over the outcome of criminal cases, save litigation costs and relieve the parties of anxiety.
- Prolonged incarceration of undertrials without any progress in the case for years and overcrowding of prisons were also other factors that may be cited in support of reducing pendency of cases and decongesting prisons through plea bargaining.

Do courts have reservations?

- Case law after the introduction of plea bargaining has not developed much as the provision is possibly not used adequately.
- Courts are also very particular about the voluntary nature of the exercise, as poverty, ignorance and prosecution pressure should not lead to someone pleading guilty of offences that may not have been committed.

JAL JEEVAN MISSION: STATES COMPETE TO OUTPERFORM

Why in news?

Launched in 2019, in 7 months of implementation of Jal Jeevan Mission in 2019-20, around 85 lakh rural households were provided with tap connections.

Details of the progress so far:

- Amidst CoVID-19 pandemic, about 55 lakh tap connections have been provided so far in the year 2020-21.
- Already, as of July 2020 7 States viz. Bihar, Telangana, Maharashtra, Haryana, Gujarat, Himachal Pradesh and Mizoram have achieved more than 10% of the target household tap connections they had fixed for themselves.
- States like Tamil Nadu, Karnataka, Odisha and Manipur have shown good progress during the corresponding period.

- This shows the commitment of the States to provide the basic services to the people residing in rural areas under Jal Jeevan Mission, as well as the speed and scale with which the States are making efforts to provide tap connections.
- Out of close to 20 Crore rural households in the country almost 25% households are already provided tap connections.
- The Objective is to cover about the remaining 15 crore households in a time-bound manner while ensuring the functionality of all tap connections.
- The Ministry of Jal Shakti has been implementing Jal Jeevan Mission (JJM) in partnership with States with an aim to provide potable water in adequate quantity of prescribed quality on regular and long-term basis through tap connections to every rural household in the country by 2024.
- Various States/ UTs have committed to achieve the goal of the Mission well before 2024.

Why in news?

The Government is planning for a livelihood provision to boost rural economy under Garib Kalyan Rojgar Abhiyaan (GKRA) to start extensive public works.

Details

- As part of this Abhiyan, Jal Jeevan Mission aims at providing household tap connections to every rural household and offers a huge opportunity to engage skilled, semi-skilled and migrant returnees in drinking water supply related works.
- States have been requested to start works in villages of these districts so that it will not only help to ensure adequate quantity of water at household level but will also help in providing employment to migrant returnees.
- States have been advised to prioritize taking up works which are easy to complete, by augmenting or retrofitting existing piped water supply schemes so that these villages become 'Har Ghar Jal Gaon' i.e. 100% Functional Household Tap Connection (FHTC) villages.
- There is a huge potential to provide household connections to remaining households in villages belonging to poor and marginalized people by retro-fitting of existing piped water supply systems.
- Campaigns to be launched for providing training to impart skills to local people including returnee migrants in plumbing, masonry, electrical aspects, pump operation, etc., so that skilled manpower will be available for water supply related works.
- This time bound campaign is focused implementation in 116 districts including 27 aspirational districts, spread in 6 States viz Bihar, Jharkhand, Madhya Pradesh, Odisha, Rajasthan and Uttar Pradesh.

Garib Kalyan Rojgar Abhiyaan

- Government of India has decided to launch a massive rural public works scheme 'Garib Kalyan Rojgar Abhiyaan' to empower and provide livelihood opportunities to the returnee migrant workers and rural citizens.
- This campaign of 125 days will involve intensified and focused implementation of 25 different types of works to provide employment to the migrant workers on one hand and create infrastructure in the rural regions of the country on the other hand.
- Beneficiaries: Approximately 116 districts spread over 6 states namely Bihar, Uttar Pradesh, Madhya Pradesh, Rajasthan, Jharkhand and Odisha have received substantial numbers of returnees, which includes 27 Aspirational Districts.
- The Abhiyaan will be a coordinated effort between 12 different Ministries/Departments.

Jal Jeevan Mission

- Jal Jeevan Mission, a central government initiative under the Ministry of Jal Shakti, aims to ensure access of piped water for every household in India.
- National Rural Drinking Water Programme (NRDWP) was restructured and subsumed into Jal Jeevan Mission (JJM) – to provide Functional Household Tap Water (FHTC) to every rural household with service level at the rate of 55 lpcd i.e., Har Ghar Nal Se Jal (HGNSJ) by 2024.

Implications

- Supply of water to all households is a basic necessity

- Reduction in water borne diseases which was due to due to consumption of substandard water

Challenges

- Critical situation of Decrease in ground water table.
- Water demand and supply is a miss match
- Contamination of local ground level sources of water like, ponds lakes and wells.
- Sustaining the provision of water to all households is a challenge, not just starting it.

OVERCOME THE MALAISE OF DEFECTION

Introduction

Supreme Court (SC) judgments say it is, as do the elaborate parliamentary debates preceding the anti-defection law enacted in 1985.

How are the Defectors taking Advantage of loopholes?

1. First, if the ruling party wants to prolong itself in office with support from other parties' legislators acting against their own parties, individual pliant speakers are available to never decide disqualification petitions against them for years.
2. Second, is the engineered resignations of legislators in a ruling dispensation by a desperate Opposition promising them lucrative ministerships if they ensure that the Opposition comes to power. It helps that these "toppling" agents are entitled to at least six months of ministerial portfolios in the new government, even if they fail to get re-elected.
3. Third, the office of the governor can also be misused, ready to interfere by giving directions to Speakers to have floor tests within 48/72 hours, only to assist the defectors to topple the government and preclude the speaker from discharging his 10th Schedule duties.
4. Fourth, clear defectors, even after being subjected to ongoing disqualification hearings before the speaker, are advised by lawyers to file no-confidence motions against the speaker.

Way Forward

1. One, we should abolish all artificial distinctions which, under the 10th Schedule, which now legitimises defections if you are able to induce two-thirds to join you. The 10th Schedule should be replaced with a simple provision itemising all activities, culled from established SC cases, both inside the House and outside it, which will automatically disqualify you and force you to be re-elected in case of anti-party activities.
2. Two, no one who resigns or is disqualified under this new listing, should be allowed to be a minister or corporation post holder, for six months or a year even after re-election. A parliamentary standing committee had once observed: "There is possibility for defection – as the defectors can be accommodated in the Council of Ministers through the other route i.e., by offering a seat in Rajya Sabha/Upper House in the States. Stringent law, which debars defectors who later become Members of the Rajya Sabha to get the post of Ministership, is required."
3. Three, we should start electing speakers, by all or majority of parties unanimously selecting an appropriate person before each general election as presiding officer – because, the moral and political authority of such a person will be larger.
4. Four, the governor should be constitutionally and explicitly barred from anything but a ceremonial role in the legislature to prevent meddling in the running of the House and the government.

24% OF RAJYA SABHA MEMBERS FACE CRIMINAL CASES

Why in news?

About a quarter of the sitting Rajya Sabha members have declared criminal cases against themselves, according to an analysis of their self-sworn affidavits by the Association for Democratic Reforms (ADR).

Details

The ADR report said an analysis of 229 of the 233 Rajya Sabha seats that represent the States and Union Territories showed that 54 MPs or 24% had declared criminal cases.

Out of the 229 MPs – 28 or 12% had declared serious criminal cases.

The ADR analysis found that 203 of the 229 MPs or 89% of those analysed had declared assets over ₹1crore.

Recently in news: Supreme Court Order

- The Supreme Court ordered political parties to publish the entire criminal history of their candidates for Assembly and Lok Sabha elections along with the reasons that goaded them to field suspected criminals over decent people
- The information should be published in a local as well as a national newspaper as well as the parties' social media handles.
- It should mandatorily be published either within 48 hours of the selection of candidates or less than two weeks before the first date for filing of nominations, whichever is earlier.

Introduction

A February 2020 Supreme Court judgment on criminalisation in politics may have far-reaching consequences for Indian democracy, as it will first be implemented in the coming Bihar elections in October 2020.

Court's directives

Earlier Orders

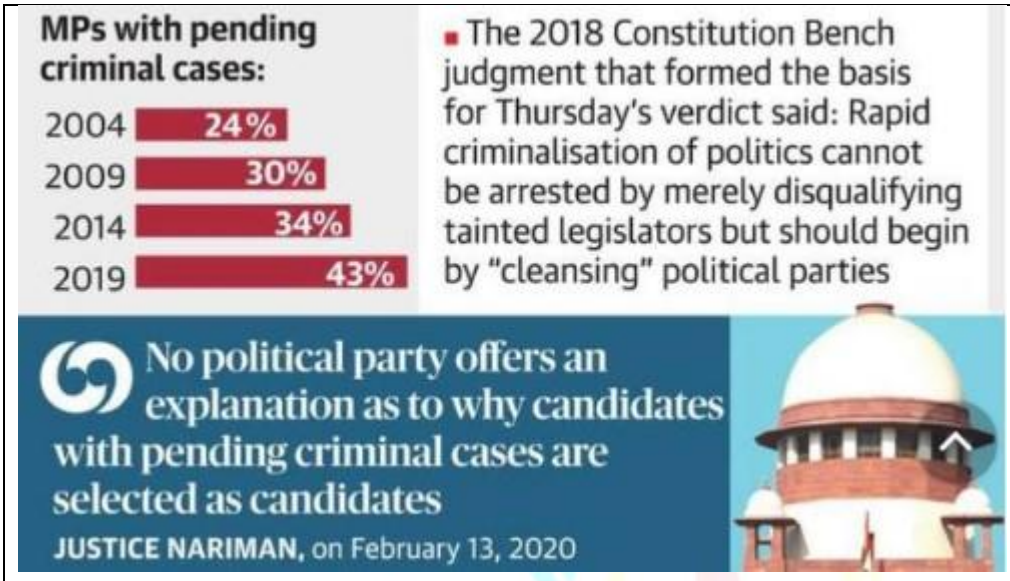
Earlier orders state that

1. Each candidate shall submit a sworn affidavit giving financial details and criminal cases;
2. Each candidate shall inform the political party in writing of criminal cases against him or her; and
3. The party shall put up on its website and on social media as well as publish in newspapers the names and details of such candidates.

New Order

- The Supreme Court ordered political parties to publish the entire criminal history of their candidates for Assembly and Lok Sabha elections along with the reasons that goaded them to field suspected criminals over decent people.
- The information should be published in a local as well as a national newspaper as well as the parties' social media handles.
- It should mandatorily be published either within 48 hours of the selection of candidates or less than two weeks before the first date for filing of nominations, whichever is earlier.
- The Court has asked the political parties to state "the reasons for such selection, as also as to why other individuals without criminal antecedents could not be selected as candidates."
- The Court has said that "winnability" cannot be cited as a reason.

An ever-present crisis



- There is a steady deterioration in politics over decades, with the decline accelerating in the past 16 years, given the increasing number of MPs and MLAs with Criminal cases against them.
- Several laws and court judgments have not helped much, as the data show, and one of reasons is lack of enforcement of laws and judgments.
- Even for the current Supreme Court order it is not clear what penalty would be imposed if the orders are not followed.

Way Forward: Being Vigilant

- There needs to be an increased and sincere monitoring the affidavits of candidates.
- Working with the Election Commission in monitoring compliance with the Supreme Court judgment to see if details of tainted candidates are promptly put up on their websites, and on their social media handles, along with proper reasons for giving them ticket.
- Voters also need to be vigilant about misuse of money, gifts and other inducements during elections.
- Voters also need to be wary of fake news, trolling, and fanciful claims.

WHO CONTROLS CITIZENS' DATA?

Why in news?

Ministry of electronics and IT decided to block access to 59 Chinese mobile apps – by invoking the exception clause relating to sovereignty under IT Act.

The MeitY order specifically refers to the mining, profiling and unauthorised use of personal data, amongst other concerns.

The instant ban is yet another call for having a functionally robust Data Protection Authority (DPA).

The Personal Data Protection Bill and the DPA

- The Personal Data Protection Bill, 2019 entrusts the DPA with the mammoth task of protecting the right to privacy of 1.3 billion Indians by regulating approximately 600 million entities, including the proliferating digital ecosystem of both the government of India and the states.
- As opposed to a sectoral regulator like SEBI, IRDA, TRAI etc, it is a sector agnostic body and has wide powers cutting across different sectors and economic spheres with powers to penalise not only both central and state governments but also other fourth branch watchdogs such as Comptroller and Auditor General of India and the Election Commission and even more significantly, the legislature and judiciary itself.

- For impartial and effective discharge of its crucial role, there is a need for the DPA to have sufficient capability to discharge its functions.
- The independence of the DPA is the foremost criterion for meeting such a requirement and a necessary prerequisite for a free and fair cross border transfer of data.

Some Concerns and Pointers

1. Under the bill, the Centre has the power to notify categories of 'sensitive personal data' in consultation with the DPA and sectoral regulators concerned. Such powers should vest solely with DPA as it is the primary rule making body under the bill and must remain at more than an arm's length from the government.
2. The Centre is empowered under the bill to issue binding directions to the DPA without any prior consultation with it. This may adversely affect the functional autonomy of the body.
3. While the power to notify certain large data fiduciaries as 'significant data fiduciaries' rests solely with the DPA, the Centre has been given the power (in consultation with the authority) to notify social media intermediaries as significant data fiduciaries, thereby diluting DPA's power.
4. A single centralised body as conceptualised now may not even be able to functionally discharge its responsibilities of safeguarding every citizen's right to privacy and preventing any harm to him, but a decentralised body will pave the way for an efficient, agile and flexible DPA.
5. The DPA may need to be constituted as a collegial body with a combination of full-time, part-time and independent members from judiciary, civil society and persons of ability, integrity and standing in the field of data protection, technology and regulation.
6. Considering the brisk pace of change in the field of technology and data sciences, increasing DPA's capacity, both qualitatively and quantitatively, in this area is a crucial imperative.
7. To gain much needed public trust and make enforcement effective – the DPA has to subject itself to the requirements under the RTI Act.
8. The bill confers absolute discretion to the Centre for deciding the number of adjudicating officers, the manner and term of their appointment and jurisdiction – thus there are concerns regarding issues of independence, conflict of interest and bias.

Why in news?

The current version of the draft Personal Data Protection (PDP) Bill is being reviewed by a Joint Parliamentary Committee.

Personal Data Protection Bill 2019

- The Personal Data Protection Bill 2019 (PDP Bill 2019) is being analyzed by a Joint Parliamentary Committee (JPC) in consultation with experts and stakeholders.
- The Bill covers mechanisms for protection of personal data and proposes the setting up of a Data Protection Authority (DPA) of India for the same.
- Some key provisions the 2019 Bill provides for which the 2018 draft Bill did not, such as that the central government can exempt any government agency from the Bill and the Right to Be Forgotten, have been included.
- The Bill proposes "Purpose limitation" and "Collection limitation" clause, which limit the collection of data to what is needed for "clear, specific, and lawful" purposes.
- It also grants individuals the right to data portability and the ability to access and transfer one's own data. It also grants individuals the right to data portability, and the ability to access and transfer one's own data.
- Finally, it legislates on the right to be forgotten. With historical roots in European Union law, General Data Protection Regulation (GDPR), this right allows an individual to remove consent for data collection and disclosure.

The Bill trifurcates data as follows:

1. Personal data: Data from which an individual can be identified like name, address etc.
2. Sensitive personal data (SPD): Some types of personal data like as financial, health, sexual orientation, biometric, genetic, transgender status, caste, religious belief, and more.
3. Critical personal data: Anything that the government at any time can deem critical, such as military or national security data.

Issues with the bill

- The current draft requires the DPA to maintain a cadre of adjudicating officers and specifies their desired areas of expertise.
- All other important details, like the terms of appointment, jurisdictional scope, and procedure for hearings, are, however, left to be decided by the central government.
- The Bill doesn't even specify whether the adjudication process can, or should, be preceded by mediation, which could help in the amicable settlement of many complaints.

Data Protection Authority (DPA): The solution?

- One of the many important duties cast on the Data Protection Authority (DPA) that is to be created under the Bill is to adjudicate complaints received from data principals — individuals whose personal data is processed by others.
- The DPA is set to function as what the Financial Sector Legislative Reforms Commission (FSLRC) termed as a "mini-state". This refers to an agency that is entrusted with a mix of quasi-legislative (regulation-making), executive (supervision and enforcement), and quasi-judicial (adjudication) functions.
- It comes with the risk that, absent structural safeguards, the agency might end up abusing or, conversely, neglecting some of its functions. A carefully-crafted regulatory design and robust accountability mechanisms are, therefore, essential.

Broad Mandate of the DPA, a problem

- Unlike other sectoral regulators that oversee specific businesses, the DPA's authority will extend to anyone who deals with personal data.
- This may include individuals, private entities or any department or agency of the state.
- Further, since each data principal is party to multiple online and offline relationships, the universe of regulated transactions becomes even larger.
- Even a miniscule 0.5% rate of complaints out of the total shares of personal data will result in more than 10 million cases in a year. A caseload of this sort would be daunting for any agency.
- As a consequence, the DPA may either be overwhelmed by the volume of complaints or may grossly under-prioritise this aspect, resulting in delays, erosion of trust and poorer outcomes.

Way Forward to help out the DPA

- As a consequence, the DPA may either be overwhelmed by the volume of complaints or may grossly under-prioritise this aspect, resulting in delays, erosion of trust and poorer outcomes.
- The DPA's grievance redress function can be moved to a stand-alone Data Protection Ombudsman (DPO).
- The law should also target making redress more accessible, affordable and efficient, including through the use of technology.

PRESIDENTIAL FORM OF GOVERNMENT FOR INDIA?

Understand the Indian Parliamentary System of Government

- India is a federal (or quasi-federal) democratic republic with a parliamentary system of government largely based on the UK model.
- India's federal legislative branch consists of the President, the Rajya Sabha (Council of States) as the upper house, and the Lok Sabha (House of the People) as the lower house.
- If a political party or a coalition receives more than half of the total number of seats in the Lok Sabha is able to form a Government.

- Under Indian Parliamentary system of government – the executive is responsible to the legislature for its policies and acts.
- The Constitution of India provides for a parliamentary form of government, both at the Centre and in the States.

Introduction to the Issues

- Pluralist democracy is India's greatest strength, but its current manner of operation is the source of our major weaknesses.
- There have been legislators who are largely unqualified to legislate and who have sought election only in order to wield executive power.
- Since governments depend on legislative majority, they obliged to focus more on politics than on policy or performance.
- The preferences of the electoral college are distorted as they know their individual preference that they want to vote for but not necessarily which parties.
- Spawned parties that are shifting alliances, for selfish individual interests.
- Sometimes governments focus on catering to the lowest common denominator of their coalitions is more rather than governance.

Reasons for emerging weaknesses:

- In the absence of a real party system, the voter chooses not between parties but between individuals, usually on the basis of their caste, their public image or other personal qualities.
- It has come to be such a situation in India where a party is often a label of convenience which a politician adopts and discards frequently.
- The prime minister cannot appoint a cabinet of his choice, in order to cater to the wishes of the political leaders of several parties.
- In many cases, the anti-defection Act of 1985 has failed to cure the problem, since the bargaining has shifted to getting enough MLAs to resign to topple a government.
- Most laws are drafted by the executive (in practice by the bureaucracy) and parliamentary input into their formulation and passage is minimal, with many bills being passed after barely a few minutes of debate.
- MPs have to vote as their party directs, as a disagreement with the "party whip" itself attracts disqualification

HC KEEPS STATUS QUO: DECODING THE DECISION

Focus: GS-II Governance

Why in news?

The Rajasthan high court deferred its final verdict on the plea challenging the state assembly speaker's notices of disqualification.

What are the implications of the order?

The speaker cannot decide on disqualification notices for the time being.

When can the speaker act?

- If the Supreme Court stays the high court order, the speaker can act.
- The Supreme Court is slated to take up the matter for hearing on the larger legal question of the high court's jurisdiction to interfere with the speaker's proceedings.

- If the Supreme Court does not stay the matter, then the speaker cannot act until the high court pronounces its verdict one way or the other.

What are the issues the Supreme Court is examining?

The SC is examining the limited legal question: whether a high court can interfere with the disqualification proceedings initiated before the speaker decides on them.

Past Judgements

- The Supreme Court, in its 1992 judgment in the Kihoto Hollohan v. Zachillu case, had held that judicial review should not cover any stage prior to the making of a decision by the speaker/chairman.
- No interference would be permissible at an interlocutory stage of the proceedings, the court had said.
- The court is proposing to re-examine this legal principle.

What are the issues the high court is hearing?

- The high court will examine the Constitutional validity of clause 2(1)(a) of the Constitution's Tenth Schedule that contains provisions related to the disqualification of lawmakers for defection.
- **Clause 2(1)(a) is about voluntarily giving up membership of a political party on whose ticket a lawmaker is elected on.**

The Contention by those facing Defection charges:

Merely voicing opinion against party leadership does not amount to "voluntarily giving up membership" and clause 2(1)(a), to the extent it prohibits the expression of opinion, violates the basic structure of the Constitution and the freedom of speech under Article 19.

What is Defection (Aaya Ram Gaya Ram)?

- Aaya Ram Gaya Ram (English: Ram has come, Ram has gone) expression in politics of India means the frequent floor-crossing, turncoating, switching parties and political horse trading in the legislature by the elected politicians and political parties.
- A legislator is deemed to have defected if he either voluntarily gives up the membership of his party or disobeys the directives of the party leadership on a vote. This implies that a legislator defying (abstaining or voting against) the party whip on any issue can lose his membership of the House.
- The law applies to both Parliament and state assemblies.
- The anti-defection law sought to prevent such political defections which may be due to reward of office or other similar considerations.

Anti-Defection Law

- 1985 Anti-defection Act was passed in 1985 to prevent such defections.
- It was included in constitution by Rajiv Gandhi government as the tenth schedule of Indian constitution.
- The Anti-defection Act, applicable to both Parliament and state assemblies, specifies the process for the Presiding Officer of a legislature (Speaker) to disqualify a legislators on grounds of defection based on a petition by any other member of the House.
- Legislators can change their party without the risk of disqualification to merge with or into another party provided that at least two-thirds of the legislators are in favour of the merger, neither the members who decide to merge, nor the ones who stay with the original party will face disqualification.
- The Supreme Court mandated that in the absence of a formal resignation, the giving up of membership can be determined by the conduct of a legislator, such as publicly expressing opposition to their party or support for another party, engaging in anti-party activities, criticizing the party on public forums on multiple occasions, and attending rallies organised by opposition parties.
- **The Presiding Officer has NO time limit to make his decision**

- Many instances where the parties that failed to form government demonstrate of their power to disrupt.

Positives / Reasons for a Presidential System

- For the individual he or she wants to be ruled by, and the president will truly be able to claim to speak for a majority of Indians rather than a majority of MPs.

- At the end of a fixed period of time, the public would be able to judge the individual on performance in improving the lives of Indians, rather than on political skill at keeping a government in office.
- Presidential System will ensure stability of tenure free from legislative whim.
- The Presidential System will provide sufficient power and space to be able to appoint a cabinet of talents,
- With the Presidential system in place, a President will be able to devote his or her energies to governance, and not just to government.

Risks of Presidential System

- As a commanding president, immune to parliamentary defeat and unaffected by public opinion, could rule the country arbitrarily – resulting in a dictatorship.
- If the ruling party in the presidential system loses majority midway, then there is no provision for opposition party to form the government (as available in Parliamentary system, where the president invites opposition to form government and prove majority) – This means there will disruption as new government cannot be formed without fresh elections.
- As the executive is not part of the legislature, the presidential system increases the probability of conflicts between the executive and legislature and may lead to delays in passing of bills. (As it can be seen in the U.S. where the Senate blocks passage of bills that are coming from the House of representatives.)

Conclusion

A switchover to the presidential system is not possible under present constitutional scheme of India because of the 'basic structure' doctrine propounded by the Supreme Court in 1973.

CRIMINAL CONTEMPT OF COURT

Why in news?

The recent initiation of proceedings for criminal contempt of court, has brought under focus the necessity for retaining the law of contempt as it stands.

Dilemma

- The origin of the dilemma about what would be more judicious – ignoring adverse remarks or seeking to punish – lies in the part of contempt law that criminalises anything that "scandalises or tends to scandalise" the judiciary or "lowers the court's authority".
- One side of the argument is that contempt power is needed to punish wilful disobedience to court orders (civil contempt), as well as interference in the administration of justice and overt threats to judges.
- Some argue that the law for criminal contempt can be asynchronous with our democratic system which recognises freedom of speech and expression as a fundamental right.

A wide field in India

- **The objective for contempt is stated to be to safeguard the interests of the public, if the authority of the Court is denigrated and public confidence in the administration of justice is weakened or eroded.**
- But the definition of criminal contempt in India is extremely wide, and can be easily invoked.

- An excessively loose use of the test of 'loss of public confidence', combined with a liberal exercise of suo motu powers, can be dangerous, for it can amount to the Court signalling that it will not suffer any kind of critical commentary about the institution at all.

In England and abroad

- The contempt doctrine fell into disuse, and England abolished the offence of "scandalising the court" in 2013.
- The U.K. Law Commission that recommended abolition of the contempt law said that the law was originally intended to maintain a "blaze of glory" around courts.
- Contempt has practically become obsolete in foreign democracies, with jurisdictions recognising that it is an archaic law.
- Canada ties its test for contempt to real, substantial and immediate dangers to the administration.
- American courts also no longer use the law of contempt in response to comments on judges or legal matters.

Indian Constitution: Regarding Contempt of court

- Article 129 and 215 of the Constitution of India empowers the Supreme Court and High Court respectively to punish people for their respective contempt.
- The Contempt of Courts Act of 1971 defines the power of the High Court to punish contempts of its subordinate courts.
- Power to punish for contempt of court under Articles 129 and 215 is not subject to Article 19(1)(a).

According to Lord Hardwick, there is a three-fold classification of Contempt:

1. Scandalizing the court itself.
2. Abusing parties who are concerned in the cause, in the presence of court.
3. Prejudicing the public before the cause is heard.

However, in India contempt of court is of two types:

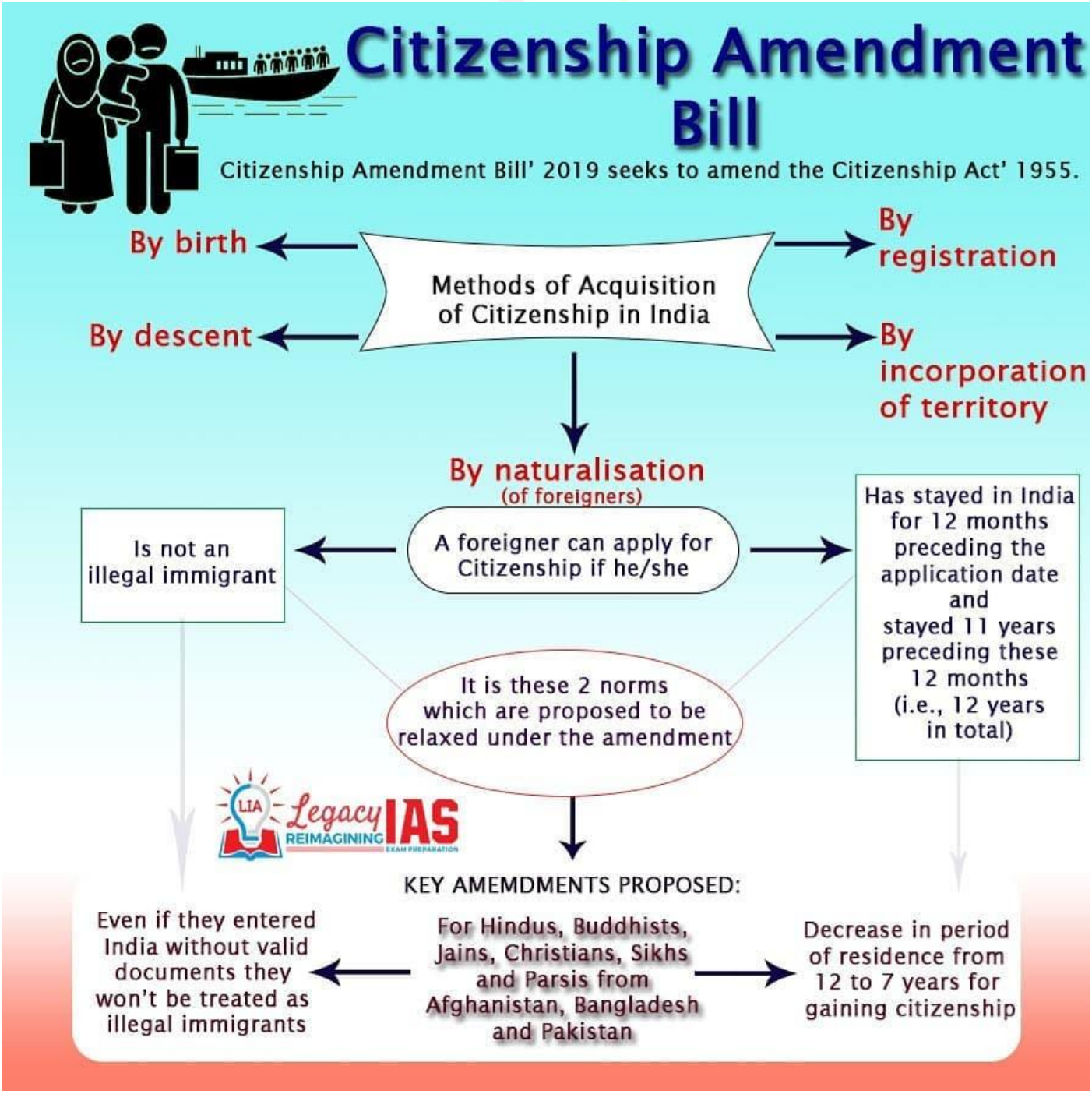
1. Civil Contempt: Under the Contempt of Courts Act of 1971, civil contempt has been defined as wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.
2. Criminal Contempt: Under the Contempt of Courts Act of 1971, criminal contempt has been defined as the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which:
    - Scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court, or
    - Prejudices, or interferes or tends to interfere with the due course of any judicial proceeding, or
    - Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

MEA: 11 SIKHS, HINDUS FROM AFGHANISTAN TO INDIA

Why in news?

- Around 11 members of minority communities of Afghanistan, including a Sikh community leader who was kidnapped and later released, arrived in India after India granted them visas and facilitated their travel.
- The efforts of the Government of the Islamic Republic of Afghanistan in extending necessary support for the safe return of these families was appreciated.
- They will be accommodated in India under a long term visa arrangement.

Recently in news: Citizenship Amendment Bill



- The Citizenship Amendment Bill (CAB) is a bill introduced by the Central Government in the Parliament of India in 2019 to primarily amend the Citizenship Act of 1955.
- The main purpose of the bill is to make certain religious communities of illegal migrants or refugees eligible for Indian citizenship – in a fast-track manner.
- The Bill, among other things, seeks to grant citizenship to Hindus, Sikhs, Jains, Parsis, Buddhists and Christians who migrated to India till the end of 2014 from countries like Pakistan, Bangladesh and Afghanistan, due to reasons like persecutions.
- The Citizenship (Amendment) Bill 2019, in effect, seeks to give Indian nationality only to the non-Muslim refugees from Pakistan, Bangladesh and Afghanistan.
- The countries from which minorities are allowed include Afghanistan, Bangladesh and Pakistan, but not Myanmar or Sri Lanka.
- Citizenship is granted by relaxing the requirement of residence in India for citizenship by naturalisation from 11 years to 5 years for these migrants.

WHEN CAN A GOVERNOR USE HIS DISCRETION

Why in news?

Rajasthan Governor returning the fresh proposal by the state Cabinet – seeking to convene a session of the Assembly – has raised fresh legal questions on the powers of the Governor.

Who has the powers to summon the House?

- It is the Governor acting on the aid and advice of the cabinet.
- Article 174 of the Constitution gives the Governor the power to summon from time to time "the House or each House of the Legislature of the State to meet at such time and place as he thinks fit."
- However, the phrase "as he thinks fit" is read as per Article 163 of the Constitution which says that the Governor acts on the aid and advice of the cabinet.
- Article 163(1) essentially limits any discretionary power of the Governor only to cases where the Constitution expressly specifies that the Governor must act on his own and apply an independent mind.

What has the Supreme Court said in the past about the Governor's power to summon the House?

- It is settled law that the Governor cannot refuse the request of the Cabinet to call for a sitting of the House for legislative purposes or for the chief minister to prove his majority.
- In fact, on numerous occasions, including in the 2016 Uttarakhand case, the court has clarified that when the majority of the ruling party is in question, a floor test must be conducted at the earliest available opportunity.
- In 2016, a Constitution Bench of the Supreme Court in Nabam Rebia and Bamang Felix vs Deputy Speaker, the Arunachal Pradesh Assembly case, expressly said that the power to summon the House is not solely vested in the Governor.

What did the SC say in the Arunachal case?

- Referring to discussions in the Constituent Assembly, the court noted that the framers of the Constitution expressly and consciously left out vesting powers to summon or dissolve the House solely with the Governor.

- In paragraph 162 of the judgment, the court discussed that draft Article 153 (which later became Article 174), that dealt with the powers of the Governor, was substantially altered to indicate that the framers did not want to give Governors the discretion.
- After debating the intention of the framers, the court concluded that the only legitimate and rightful inference, that can be drawn in the final analysis is, that the framers of the Constitution decided not to vest discretion with the Governor, in the matter of summoning and dissolving the House, or Houses of the State Legislature.
- The Supreme concluded that the Governor can summon, prorogue and dissolve the House, only on the aid and advice of the Council of Ministers with the Chief Minister as the head. And not at his own.

GETTING AHEAD OF CONSTITUTIONAL PRACTICES

Introduction

- The Rajasthan High Court's order staying the anti-defection proceedings initiated by the Assembly Speaker against the rebel legislators raises important constitutional issues.
- A petition challenging the issuance of notices by the Speaker to the rebel MLAs turned into one challenging the constitutionality of Para 2(1)(a) of the Tenth Schedule to the Constitution (anti-defection law).

Rules framed under the Tenth Schedule

- These rules were first framed by the Lok Sabha Speaker in 1985 and adopted by more or less all the State Legislatures.
- Rule 6 of the Lok Sabha rules deals with the filing of the petition and the forwarding of the same by the Speaker to the Member concerned and related matters.
- The rule requires the petitioner, and not the Speaker, to satisfy himself about the reasonableness of the ground for disqualification.
- Rule 7 says that on receipt of the petition, the Speaker shall consider whether the petition complies with the requirements of Rule 6.
- If he finds that the petition does not meet all the requirements, he shall dismiss it.
- If it complies with all the requirements, he shall forward the copy of the petition and the annexure to the concerned Member and require him to submit his comments within seven days of the receipt of the copy of the petition.
- Only through a proper hearing will the Speaker be able to know whether reasonable grounds exist for disqualification.
- Staying the Speaker's action is unprecedented and unheard of at the 'notice' stage and it will stymie the operation of the Tenth Schedule because any Member can go to court and obtain a stay and put a stop to the proceedings.

Date of the Assembly session

- Summoning the Assembly is a routine constitutional function of the Governor.
- As per the normal procedure, once the Cabinet decides to call the session on a particular date, that decision is conveyed to the Governor who signs the summons order and sends it back the same day or the next day.

- Under Article 174 of the Constitution, the Governor summons the Assembly, **but the Governor can act only on the advice of the Council of Ministers.**
- The Governor, being a constitutional head, does not exercise any of the executive powers except where the Constitution assigns him certain functions to be performed in his discretion.
- The Nabam Rebia case makes it clear that so long as the Chief Minister enjoys majority support in the Assembly, the Governor has no discretional powers and is bound to accept the decisions of the Cabinet in regard to the date of commencement of the session.
- In Shamsher Singh v. State of Punjab (1974), **the Supreme Court said: "The Governor has no right to refuse to act on the advice of the Council of Ministries. Such a position is antithetical to the concept of 'responsible government'."**

The 21-day period

- The Constitution does not provide for any 21-day period between summoning and commencement.
- In 1960s, the Rules Committee of the Lok Sabha recommended that the gap between the date of summons and of the commencement of the House should be 21 days.
- This was thought of as necessary as the collection, collation and scrutiny of information relating to Questions, at different levels of bureaucracy, before it was placed in the House, was a time-consuming job.
- Although Parliament changed it to 15 days later, many State Legislatures continue with the 21-day period. It is not an inflexible rule, and says "unless the Speaker otherwise decides".

CONTEMPT OF COURT EXPLAINED

Introduction

Contempt of court, as a concept that seeks to protect judicial institutions from motivated attacks and unwarranted criticism, and as a legal mechanism to punish those who lower its authority, is back in the news in India.

How did the concept of contempt come into being?

- The concept of contempt of court is several centuries old.
- In England, it is a common law principle that seeks to protect the judicial power of the king, initially exercised by himself, and later by a panel of judges who acted in his name.
- Violation of the judges' orders was considered an affront to the king himself.

What is the statutory basis for contempt of court?

- There were pre-Independence laws of contempt in India.
- When the Constitution was adopted, contempt of court was made one of the restrictions on freedom of speech and expression.
- Article 129 of the Constitution conferred on the Supreme Court the power to punish contempt of itself.
- Article 215 conferred a corresponding power on the High Courts.
- The Contempt of Courts Act, 1971, gives statutory backing to the idea.

What are the kinds of contempt of court?

The law codifying contempt classifies it as civil and criminal.

- Civil Contempt – when someone wilfully disobeys a court order, or wilfully breaches an undertaking given to court.
- Criminal Contempt – consists of three forms:
    - words, written or spoken, signs and actions that "scandalise" or "tend to scandalise" or "lower" or "tends to lower" the authority of any court
    - prejudices or interferes with any judicial proceeding and
    - interferes with or obstructs the administration of justice.

Making allegations against the judiciary or individual judges, attributing motives to judgments and judicial functioning and any scurrilous attack on the conduct of judges are normally considered matters that scandalise the judiciary.

The rationale for this provision is that courts must be protected from tendentious attacks that lower its authority, defame its public image and make the public lose faith in its impartiality.

The punishment for contempt of court is simple imprisonment for a term up to six months and/or a fine of up to RS. 2,000.

What is not contempt of court?

- Fair and accurate reporting of judicial proceedings will not amount to contempt of court.
- Nor is any fair criticism on the merits of a judicial order after a case is heard and disposed of.

Is truth a defence against a contempt charge?

- For many years, truth was seldom considered a defence against a charge of contempt.
- There was an impression that the judiciary tended to hide any misconduct among its individual members in the name of protecting the image of the institution.
- The Act was amended in 2006 to introduce truth as a valid defence, if it was in public interest and was invoked in a bona fide manner.

QUESTIONS BEING RAISED ABOUT GOVERNOR'S ACTIONS

Introduction

The Rajasthan Governor repeatedly turned down the advice of the Council of Ministers to convene a session of the Rajasthan Assembly.

What are the related powers of a Governor?

- The Supreme Court reiterated that "the functions, duties and powers of the Governor by or under the Constitution are 'cabined, cribbed, confined'." The Bench explored the Governor's powers vis-à-vis the executive and the legislature.
- It's in his power to prorogue the state legislature and dissolve the state legislative assemblies
- He addresses the state legislature at the first session of every year
- If any bill is pending in the state legislature, Governor may/may not send a bill to the state legislature concerning the same
- If the speaker of the legislative assembly is absent and same is Deputy Speaker, then Governor appoints a person to preside over the session.

Who summons an Assembly session?

- The Supreme Court held that the Governor's power under Article 174 to summon, prorogue and dissolve the house(s) must be exercised in consonance with the aid and advice of the chief minister and his council of ministers.
- In the above situation, the governor is precluded from taking an individual call on the issue at his/her own will, or in his/her own discretion.
- The discretion given to the Governor in respect of his relations with the Legislative Assembly is not only limited and circumscribed by the Constitution but also by the Rules framed by the Legislative Assembly under Article 208 of the Constitution.

Can the Governor direct the agenda or procedure of the legislature?

The proceedings of the legislature are guided by rules made by it, and the Governor cannot have any say in it.

When can the Governor act without the advice of the Council of Ministers?

In some States, the Governor has special powers to advance tribal welfare – it becomes his responsibility to appoint Tribal Welfare Minister in the states of Chattisgarh, Jharkhand, Madhya Pradesh and Odisha.

With respect to the bill introduced in the state legislature, he can:

1. Give his assent
2. Withhold his assent
3. Return the bill
4. Reserve the bill for the President's consideration (In instances where the bill introduced in the state legislature endangers the position of state High Court.)

If the Chief Minister and his Council of Ministers lose their majority, or they refuse to recommend a session in six months, or there is a reasonable doubt about their majority, the Governor could demand a session.

- The Governor invites a person who he thinks has the legislative majority to form a government, but the use of this power cannot be arbitrary.
- If there is a Council of Ministers with a majority, the Governor has to go by its recommendation to dissolve the legislature.
- In the event of a Chief Minister and his Council of Ministers losing the majority, the Governor can use his or her discretion to either explore the formation of a new government or dissolve the House.

Is the Governor bound by people's representatives?

- The Constituent Assembly very consciously limited the Governor's discretionary powers.
- The misuse of the Governor's office by parties in power at the Centre to disturb State governments in control of the Opposition has remained a scourge.
- A 2016 Supreme Court judgment that a Governor "cannot have an overriding authority, over the representatives of the people, who constitute the state legislature and/or even the executive government functioning under the council of ministers with the Chief Minister as the head".

PROFITEERING DURING A PANDEMIC

Introduction

Soon after the government imposed a nationwide lockdown to contain the spread of COVID-19, prices of essential items shot up in several places across the country.

Overpricing and Profiteering cases

- Reports emerged that in some private hospitals, patients were asked to pay lakhs even before being allotted beds and patients were also being overcharged even after State governments capped COVID-19 treatment charges.
- The cost of medicines and other essential requirements like Masks and sanitizers too shot up (with resolution coming the form of Essential Commodities act being put into action for controlling prices).
- During the lockdown, poor migrants who wanted to go home had to spend large amounts to hire vehicles.

Handling such situations in the past

- Way back in 1897, the British enacted the Epidemic Diseases Act which empowered the government to implement any measures that would prevent the outbreak or spread of any disease.
- According to the law, anyone disobeying the orders of any public servant can be punished under Section 188 of the Indian Penal Code.

Steps taken by states

- Some of the states have now set a cap on the tariff that can be charged by private hospitals for COVID-19 care.
- Maharashtra was the first to fix a tariff, followed by Gujarat and Tamil Nadu.
- Hospitals have been graded into categories, depending on facilities provided.
- Making it a participatory process, the private sector was also co-opted into discussions on tariff.
- States has also taken up action to fixing the rate of testing.

Way Forward

- A provision can be incorporated in the Disaster Management Act of 2005 to make overcharging the public a punishable offence.
- Denying admission in hospitals, refusing to bury the dead in cemeteries, etc., can be made punishable offences without reasonable explanations.
- Cases of extortion in hospitals by holding 'hostage' – i.e., when hospitals hold the patient or the body in their custody until their bills are paid, should be taken up seriously.
- Essential Commodities Act should be brought into action effectively and swiftly to control rise of prices due to increased demand and supply deficiency.
- Governments should take steps to mitigate the effects of lack of supply of essential goods by provisioning special rules to ensure the transport of such goods is not affected.
- The supply deficiency can also be tackled by taking steps to import from outside the boundary / encourage and enable production within the boundaries.

- Citizens should be made aware of the serious implications of hoarding and rules to prevent hoarding can be implemented as an immediate response.

HC NOTICE TO FACEBOOK ON PLEA

Why in news?

- The Delhi High Court has issued a notice to Facebook Inc., which owns photo and video sharing social networking platform Instagram, on a petition seeking removal of pictures of a college student from porn sites which were lifted from Instagram.
- The HC ordered Delhi police's Cyber Prevention Awareness and Detection Unit (CyPAD) to submit a status report on the investigation.
- Notices under Section 79(3)(b) of the Information Technology Act, 2000, were sent to Internet Service Providers (ISPs), they being the intermediaries that act as entry points for India, to block the offending content.

Difficulty in Completely removing Content from the Internet

- It is easy to change the 'hash value' that is the 'identifying elements' of any content, when it is forwarded or moved from one platform to another.
- This makes it impossible for an algorithm to identify and remove offending content from all places.

What is the Information Technology (IT) Act?

- The Information Technology Act, 2000 is the primary law in India dealing with cybercrime and electronic commerce.
- The laws apply to the whole of India. If a crime involves a computer or network located in India, persons of other nationalities can also be indicted under the law.
- The Aim of the Act was to provide legal infrastructure for e-commerce in India.
- The Information Technology Act, 2000 also aims to provide for the legal framework so that legal sanctity is accorded to all electronic records and other activities carried out by electronic means.
- It also defines cyber-crimes and prescribes penalties for them.

Section 66A of IT Act – Struck down

- Section 66A of the IT Act has been enacted to regulate the social media law India and assumes importance as it controls and regulates all the legal issues related to social media law India.
- This section clearly restricts the transmission, posting of messages, mails, comments which can be offensive or unwarranted.
- The offending message can be in form of text, image, audio, video or any other electronic record which is capable of being transmitted.
- In the current scenarios such sweeping powers under the IT Act provides a tool in the hands of the Government to curb the misuse of the Social Media Law India in any form.
- However, in 2015, in a landmark judgment upholding the right to free speech in recent times, the Supreme Court in Shreya Singhal and Ors. Vs Union of India, struck down Section 66A of the Information & Technology Act, 2000.

- The judgment had found that Section 66A was contrary to both Articles 19 (free speech) and 21 (right to life) of the Constitution.
- The repeal of 66A does not however result in an unrestricted right to free speech since analogous provisions of the Indian Penal Code (IPC) will continue to apply to social media online.

MEDAL FOR EXCELLENCE IN INVESTIGATION

Why in news?

The "Union Home Minister's Medal for Excellence in Investigation" for the year 2020 have been awarded to 121 Police personnel.

Union Home Minister's Medal for Excellence in Investigation

- The medal is given to police personnel and members of central investigation agencies in recognition of their outstanding service in investigation and to promote the standard of investigation.
- The objective is to promote high professional standards of investigation of crime and to recognize such excellence in investigation by investigating officers.
- The names will be finalized by the Ministry of Home Affairs based on recommendations made by States/UTs and Central police organizations.

INDIA'S POPULATION DATA AND PROJECTIONS

Introduction

A new study argues that while India is destined to be the largest country in the world, its population will peak by mid-century and as the 21st century closes, its ultimate population will be far smaller than anyone could have anticipated, about 1.09 billion instead of approximately 1.35 billion today.

Fertility rate prediction

The study predicts that by the year 2100, on average, Indian women will have 1.29 children.

Since each woman must have two children to replace herself and her husband, this will result in a sharp population decline.

- In contrast to the predicted 1.29 children rate for India, the study projected cohort fertility of 1.53 for the United States and 1.78 for France in the same model (both significantly higher than India).

The Contrast in the second half

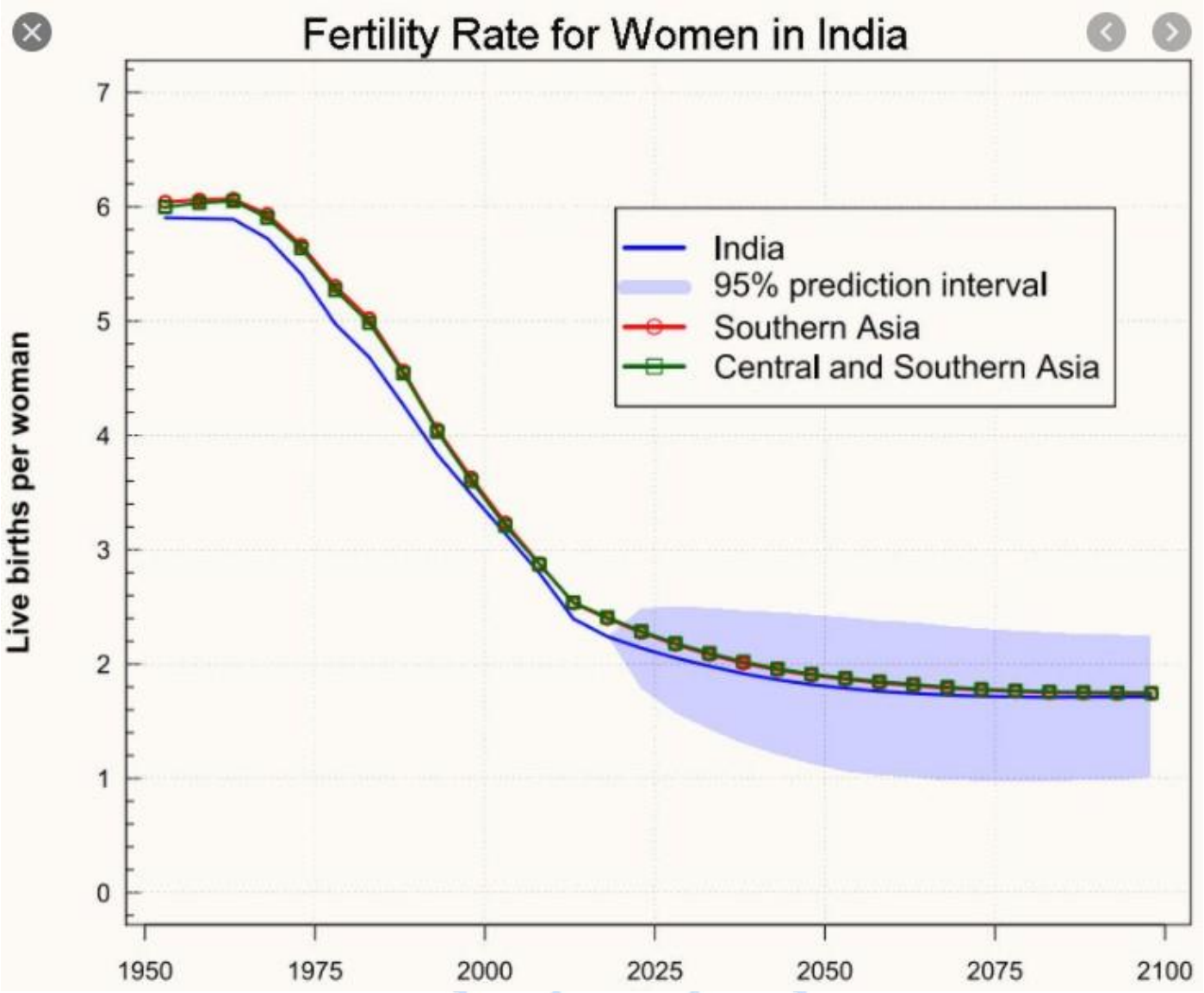
- The United Nations projects that India's population will be 1.64 billion by 2050 and the IHME projects 1.61 billion by 2048 (quite similar projections).
- In the second half of the century the two projections diverge with the UN predicting a population of 1.45 billion by 2100, and the IHME, 1.09 billion.

Reason for divergence?

- Part of this divergence may come from IHME model's excessive reliance on data regarding current contraceptive use in the National Family Health Survey (NFHS) and potential for increasing contraceptive use.
- Research at the National Council of Applied Economic Research (NCAER) National Data Innovation Centre by Santanu Pramanik and colleagues shows that contraceptive use in the NFHS is poorly estimated, and as a result, unmet need for contraception may be lower than that estimated by the IHME model, generating implausibly low fertility projections for 2100.

Fertility decline

- Regardless of which projection we consider, **India's demographic future contains a peaking and subsequently declining population driven by a sharp reduction in fertility.**
- In the 1950s, India's Total fertility rate (TFR) was nearly 6 children per woman, today it is 2.2.



What did NOT accelerate fertility decline?

- Family planning has long lost its primacy in the Indian policy discourse.
- Between 1975 and 1994, family planning workers had targets they were expected to meet regarding sterilisations, condom distribution and intrauterine device (IUD) insertion and often these targets led to explicit or implicit coercion.
- The stick of policies designed to punish people with large families has been largely ineffective.

Punitive policies include denial of maternity leave for third and subsequent births, limiting benefits of maternity schemes and ineligibility to contest in local body elections for individuals with large families.

What accelerated fertility decline?

- It seems highly probable that the socioeconomic transformation of India since the 1990s has played an important role.
- Over this period, agriculture became an increasingly smaller part of the Indian economy, school and college enrolment grew sharply and individuals lucky enough to find a job in government, multinationals or software services companies reaped tremendous financial benefits.
- Hence, parents began to rethink their family-building strategies.

Retreat from family?

The literature on fertility decline in western countries attributes the decline in fertility to retreat from the family, however, Indian parents seem to demonstrate increased rather than decreased commitment to family by reducing the number of children and investing more in each child.

Way Forward

- Demographic data suggest that the aspirational revolution is already under way.
- What we need to hasten the fertility decline is to ensure that the health and family welfare system is up to this challenge and provides contraception and sexual and reproductive health services that allow individuals to have only as many children as they want.

HINDU WOMEN'S INHERITANCE RIGHTS JUDGEMENT: EXPLAINED

Why in news?

The Supreme Court expanded on a Hindu woman's right to be a joint legal heir and inherit ancestral property on terms equal to male heirs.

What is the ruling?

- The Supreme court ruled that a Hindu woman's right to be a joint heir to the ancestral property is by birth and does not depend on whether her father was alive or not when the law was enacted in 2005.
- The Hindu Succession (Amendment) Act, 2005 gave Hindu women the right to be coparceners or joint legal heirs in the same way a male heir does.
- The SC said that since the coparcenary is by birth, it is not necessary that the father coparcener should be living as on amendment date of 2005.

What is the 2005 law?

- The Mitakshara school of Hindu law codified as the Hindu Succession Act, 1956 governed succession and inheritance of property but only recognised males as legal heirs.
- The law applied to everyone who is not a Muslim, Christian, Parsi or Jew by religion.
- Buddhists, Sikhs, Jains and followers of Arya Samaj, Brahmo Samaj are also considered Hindus for the purposes of this law.
- Women were recognised as coparceners or joint legal heirs for partition arising from 2005.
- The law applies to ancestral property and to intestate succession in personal property — where succession happens as per law and not through a will.

How did the court decide the case?

- The court looked into the rights under the Mitakshara coparcenary – and since it creates an "unobstructed heritage" or a right created by birth for the daughter of the coparcener, the right cannot be limited by whether the coparcener is alive or dead when the right is operationalised.
- It was argued that "The Mitakshara coparcenary law not only contributed to discrimination on the ground of gender but was oppressive and negated the fundamental right of equality guaranteed by the Constitution of India."

SC: DAUGHTERS HAVE EQUAL BIRTHRIGHT TO INHERIT PROPERTY

Why in news?

The Supreme Court held that daughters, like sons, have an equal birthright to inherit joint Hindu family property. The judgement came on the issue whether the amendment to the Hindu Succession Act, 1956, granting equal rights to daughters to inherit ancestral property would have retrospective effect.

Details

- The Supreme court decided that the amended Hindu Succession Act, which gives daughters equal rights to ancestral property, will have a retrospective effect.
- The judgment agreed that the substituted Section 6 of the Hindu Succession Act, 1956 confers the status of 'coparcener' to a daughter born before or after the amendment in the same manner as a son.

Coparcener is a person who has a birthright to parental property.

- The court larified that an unregistered oral partition, without any contemporaneous public document, cannot be accepted as the statutory recognised mode of partition.
- However, in exceptional cases where plea of oral partition is supported by public documents and partition is finally evinced in the same manner as if it had been affected by a decree of a court, it may be accepted.

JAMMU AND KASHMIR TO GET LIMITED 4G ACCESS

Why in news?

- In the last hearing, the court asked the Centre to explain whether 4G network could be restored in select areas of Jammu and Kashmir where there was no trouble.
- Attorney General informed the Supreme Court that 4G Internet access will be opened up after Independence Day in one district in each of Jammu and Kashmir's divisions.
- The "carefully calibrated" opening up of 4G access would be on a trial basis.

Details

- The Centre, however, said a blanket removal of the 4G ban was not possible now, considering the "overall situation" and "threat perception" to national, border and local security.
- The access will be limited to specified areas that are not adjacent to the international border and have seen "low intensity terrorist activities".
- Access will be strictly monitored to protect national, border and local security.

LIMITED 4G CONNECTIVITY IN J&K

Restrictions on high-speed 4G mobile internet will be relaxed in one district each of J&K divisions after Aug 15 on a trial basis, the Centre has told the Supreme Court

- The decision was taken on the basis of recommendations by a special committee that was constituted after the SC's May 11 directive to review internet curbs
- Internet restrictions were imposed in J&K after revocation of Artide 370 last year. People in the Valley currently have access to 2G internet

WASEEM ANDRABI/HT PHOTO

RULE TO BE REVIEWED The relaxation will be reviewed by J&K administration every seven days and by central authorities after two months

NOT A BLANKET REMOVAL The Centre told the Supreme Court that due to existing security concerns, internet restrictions cannot be lifted across the Union Territory

WHY ANTI-DEFECTION LAW HAS FAILED ITS PURPOSE

Introduction

- The anti-defection law is supposed to deter elected legislators from defecting from their political parties.
- They can lose their seats in the legislature for defying their party, and if declared a defector, they cannot become a minister in a government for six months.
- However, many recent events have raised concerns that MLAs and political parties have become adept at using and bypassing the anti-defection law.

Problems with laws

I- It only punishes MLAs for switching parties.

- Political parties who are at the heart of our politics have no liability under the law. They benefit from defections and are often accused of enticing MLAs of rival parties to switch loyalties.

II- Limits are only on electoral spending by a candidate.

- Limits on electoral spending apply only to candidates and Political parties can spend an unlimited amount on behalf of their candidates.

III- No restriction on political parties to give tickets to those facing Criminal Charges.

- Individuals convicted with a prison term of over two years cannot stand for elections, but there is no restriction on political parties to give tickets to individuals who face criminal charges which are pending before courts.

Way Forward suggested

- A lasting solution to the problem can come from the adherence by political parties to a code of conduct that takes into account the fundamental priorities and decencies that ought to govern the functioning of democratic institutions.

STATES ASKED NOT TO MAKE INDEPENDENT VACCINE PURCHASES

Why in news?

An expert committee on Vaccine Administration for COVID-19 has advised states not to procure Covid-19 vaccines on their own and said that domestic production capacity and supplies through Gavi, the Vaccine Alliance, would be sufficient for India.

Details

- The Committee said that there will be a unified mechanism to procure vaccines and states have been advised against following independent mechanisms.
- The committee noted that India has a significant domestic production capacity, which could also help to meet the requirements of other countries.
- India is assuming a leadership position and given the capacities that India has, that position should be leveraged for other middle- and lowincome countries, too.
- The government is confident that it can manage with its indigenous production capacity and the mechanism hosted by Gavi, the Vaccine Alliance.
- The Gavi facility will buy vaccines approved by regulatory agencies and/or prequalified by the WHO and will initially provide doses for 20% of the population in 92 lowand middle-income countries.

Concerns being addressed

- The panel also deliberated on the creation of digital infrastructure for inventory management and delivery mechanism for the vaccine, including tracking of the vaccination process with focus on last-mile delivery.
- The committee discussed the broad parameters for selection of Covid-19 vaccine candidates for the country and sought inputs from the standing technical sub-committee of national technical advisory group on immunization
- The expert group discussed the financial resources required to procure the vaccines and funding options.
- The availability of delivery platforms, cold chain and associated infrastructure for the rollout of Covid-19 vaccination was also taken up, as were issues related to safety and surveillance.
- The committee will next meet officials from companies that are leading vaccine development in India.

Global Alliance for Vaccines and Immunizations (GAVI)

- GAVI was created in 2000 as a successor to the Children's Vaccine Initiative, which had been launched in 1990.

- GAVI is Headquartered in Geneva, Switzerland.
- The GAVI Alliance (formerly the Global Alliance for Vaccines and Immunisation) is a global health partnership of public and private sector organizations dedicated to "immunisation for all".
- GAVI's strategy supports its mission to save children's lives and protect people's health by increasing access to immunisation in poor countries.

MADRAS HC: LAW TO BAR CRIMINALS IN ELECTION

Why in news?

The Madras High Court has directed the Centre to explain in two weeks as to why it should not enact a law prohibiting people with criminal background from contesting in parliamentary, Assembly and local body elections.

Details

- The High Court issued the direction after taking note of media reports of "persons with criminal background becoming policy makers in many parts of the country."
- They said such practice "has to be prevented and the system has to be cleansed."

The Current state of Criminal Cases and Legislators

- The Bench pointed out that an analysis of the 2019 Lok Sabha election winners by Association for Democratic Reforms, a non-governmental organisation, revealed that 43% (233 out of 539 Members of Parliament) had declared criminal cases pending against them.
- Further, 29% (159 MPs) of the legislators were facing serious criminal cases.
- The Chennai HC expressed dismay over media reports of criminal elements in Puducherry having close connection and support of political parties and some of the Ministers and legislators being provided security by rowdy gangs.
- The Judges asked the Director General of Police to submit the details of rowdy gangs active in Puducherry, and details regarding number of persons with criminal background accommodated as top office bearers and district secretaries of various political parties and the nature of cases booked against them.

What does the data represent?

- According to an analysis of their self-sworn affidavits by the Association for Democratic Reforms (ADR) – report said 229 of the 233 Rajya Sabha seats that represent the States and Union Territories showed that 54 MPs or 24% had declared criminal cases.
- Out of the 229 MPs – 28 or 12% had declared serious criminal cases.
- The ADR analysis found that 203 of the 229 MPs or 89% of those analysed had declared assets over Rs. 1crore.

PMO DENIES RTI PLEA SEEKING INFO ON PM-CARES

Why in news?

- The Prime Minister's Office (PMO) has denied a Right to Information request related to the PM-CARES Fund on the grounds that providing it would "disproportionately divert the resources of the office."

- However, a High Court judgment and multiple orders of the Central Information Commission (CIC) have previously held that, under the RTI Act, **this rationale can only be used to change the format of information provided, not deny it altogether.**

Right to Information (RTI) Act

- Right to Information (RTI) is an act of the Parliament of India which sets out the rules and procedures regarding citizens' right to information.
- Under the RTI Act, 2005, Public Authorities are required to make disclosures on various aspects of their structure and functioning.

This includes:

1. disclosure on their organisation, functions, and structure,
2. powers and duties of its officers and employees, and
3. financial information.

The intent of such suo moto disclosures is that the public should need minimum recourse through the Act to obtain such information.

- If such information is not made available, citizens have the right to request for it from the Authorities.
- This may include information in the form of documents, files, or electronic records under the control of the Public Authority.
- The intent behind the enactment of the Act is to promote transparency and accountability in the working of Public Authorities.

Background to the RTI Petition of PM CARES

- The Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM CARES) Fund was set to accept donations and provide relief during the COVID-19 pandemic, and other similar emergencies.
- After the announcement of the PM CARES fund an RTI Application was filed asking the PMO to provide the Fund's trust deed and all government orders, notifications and circulars relating to its creation and operation.
- The Petition was filed regarding the need of a PM CARES fund when the Prime Minister's National Relief Fund (PMNRF) was already existing.

ROLE OF POLICE FORCE AND MUNICIPALITIES IN SVANIDHI

Why in news?

Housing and Urban Affairs has urged the concerned officials to sensitize all their subordinates towards the street vendors, in a meeting to review PM SVANidhi scheme.

Highlights

- The MoHUA said "To a marginalized Street Vendor already battling to survive on a day to day basis, overturning his cart or asking for a bribe or any other form of harassment, is diabolically cruel."
- Even in normal times the Street Vendors have a marginalized existence and their plight has been compounded with the Covid-19 pandemic.
- The minister stressed that the Street Vendors need to be provided with an enabling environment where they have a sense of protection from undue harassment / eviction.

- The minister emphasised that the role of police force and municipalities is important in overall protection of livelihoods of street vendors and creating a conducive environment and added that the vendors do not demand much, other than a place where they can vend their articles in a harassment free environment.

Important Pointers

- The Ministry is also in the process of preparing a plan to capture socio-economic profile of all PM SVANidhi beneficiaries in order to facilitate their access to various government welfare schemes, as per their entitlements.
- **Street vendors constitute up to 2% of the urban population and they contribute immensely to the informal economy.**
- According to the Ministry of Housing and Urban Poverty Alleviation, there are 10 million street vendors in India.
- In India, street vending makes up 14% of total (non-agricultural) urban informal employment.
- Though the prevalent license-permit raj in Indian bureaucracy ended for most retailing in the 1990s, it continues in Street Vending.
- Inappropriate license ceiling in most cities means more vendors hawk their goods illegally, which also makes them prone to the bribery and extortion culture under local police and municipal authorities, besides harassment, heavy fines and sudden evictions.
- Over the years the street vendors have organized themselves into trade unions and associations, and numerous NGO's have started working for them.
- The National Hawker Federation (NHF), based all over India, is a federation of 1400 street vendor organizations, trade unions in 28 states.
- The Ministry of Housing and Urban Affairs is implementing the Deendayal Antyodaya Yojana – National Urban Livelihoods Mission (DAY-NULM) which has provision for creation of pro-vending infrastructure in the Urban Local Bodies (ULBs) through the Support to Urban Street Vendors (SUSV) component.
- The Street Vendors Act, 2014 was enacted for protection of livelihood rights, social security and regulation of urban street vending.

PM SVANidhi

- PM SVANidhi, short for Pradhan Mantri Street Vendor's AtmaNirbhar Nidhi, will help street vendors resume their businesses, impacted due to the nationwide lockdown.
- Vendors can avail of a working capital loan of up to ₹10,000, which is repayable in monthly instalments over one year.
- On timely, or early repayment, an interest subsidy of 7% per annum will be credited to the bank accounts of beneficiaries through Direct Benefit Transfer every six months.
- There will be no penalty for early repayment of loans.

Who will be Benefitted by this scheme?

- Five million street vendors who were operating on or before 24 March are expected to benefit from the scheme, which will be available till March 2022.
- The scheme is applicable to vendors, hawkers, thelewalas, rehriwalas, and theliphadwalas supplying goods and services.

- Street vendors in peri-urban or rural areas will also be able to avail the benefits.

Implementation of PM SVANidhi

- Urban local bodies will be playing a pivotal role in the implementation of the scheme as the lending institutions under the scheme include, Regional Rural Banks, Scheduled Commercial Banks, Cooperative Banks, Small Finance Banks, Micro Finance Institutions, NBFCs, and Self-Help Groups.
- It is the first time that NBFCs/MFIs/SHG Banks have been allowed in a scheme for urban poor. The change is because of their ground-level presence and proximity to the urban poor including the street vendors.
- Also, for the fast implementation of the scheme for transparency, a digital platform with a mobile app and web portal has also been developed to administer the scheme with end to end solutions. This platform will also help in integrating the vendors in a formal financial system.
- The scheme will also incentivise digital transactions by the street vendors through monthly cashback.

Street Vendors Act, 2014

Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 is an Act of the Parliament of India to regulate street vendors in public areas and protect their rights.

Provisions

1. Town Vending Committee will be responsible for conducting of survey of all the vendors under its jurisdiction, and such survey must be conducted every five years. No street vendor will be evicted until such survey has been made and a certificate of vending has been issued.
2. All street vendors will be accommodated in a designated vending zone. In case, all the vendors cannot be accommodated in the same vending zone, allocation of space will be made by drawing of lots. However, those who fail to get space in the same vending zone, will be accommodated in adjoining vending zones.
3. All street vendors above fourteen years of age will be granted a certificate of vending. However, such certificates will be granted only if the person gives an undertaking that he will carry out his business by himself or through the help of his family members, he has no other means of livelihood and he will not transfer the certificate. However, the certificate can be transferred to one of his family members if such vendor dies or suffers from permanent disability.
4. The certificate may be cancelled if the vendor breaches the conditions of the certificate.
5. No vendor will be allowed to carry out vending activities in no-vending zones.
6. In case of declaration of a specified area as a no-vending zone, the vendors will be relocated to another area. However, such street vendors must be given a notice of at least 30 days for relocation.
7. There shall be a dispute resolution body consisting of a Chairperson who has been a civil judge or a judicial magistrate and two other professionals as prescribed by the appropriate government.

JURISDICTIONAL CONFLICT IN THE RUNNING OF DELHI

Introduction

The Constitution Bench of the Supreme Court in Government of NCT of Delhi vs. Union of India (2018) said: "The exercise of establishing a democratic and representative form of government for NCT of Delhi by insertion of Articles 239AA and 239AB would turn futile if the Government of Delhi that enjoys the confidence of the people of Delhi is not able to usher in policies and laws over which the Delhi Legislative Assembly has powers to legislate for the NCT of Delhi."

NCT of Delhi vs. Union of India: Issues and possible solutions

- The judgment enunciates lofty principles concerning constitutional morality, co-operative federalism, constitutional conscience, pragmatic federalism, etc.
- It tells the State government that it should remember that Delhi is a special category Union Territory and lays down the parameters to enabling the harmonious functioning of the government and the Lt. Governor.
- **The Supreme Court has settled the law in regard to the 'aid and advice' of the Council of Ministers by affirming that the Lt. Governor is BOUND TO ACT ON THE AID AND ADVICE EXCEPT IN RESPECT OF 'LAND', 'PUBLIC ORDER' AND THE 'POLICE'.**
- The Court has also made it clear that there is no requirement of the concurrence of the Lt. Governor and that he has **NO power to overrule the decisions of the State government.**
- In the operationalisation of Article 239AA (4) (proviso) which says that in the case of a **difference of opinion between the Lt. Governor and his Ministers** on any matter, the Lt. Governor shall **refer it to the President** for decision and act according to that decision (and "President's decision" in reality means the decision of the Union Government).
- In the meantime, if the Lt. Governor thinks that the matter is urgent, he can take immediate action on his own – (bringing the matter back to square one).

How is it back to square one?

If a Lt. Governor, for example, wants to frustrate the efforts of the government, he can declare that there is a difference of opinion on any issue decided by the elected government and refer it to the President which in reality means the Union Home Ministry, and the Lt. Governor being its representative, it is easier for him to secure a decision in his favour.

Example:

- The recent appointment of prosecutors for conducting the Delhi riot cases in the High Court is a case in point.
- As per the High Court and the Supreme Court, the appointment of prosecutors is exclusively within the purview of the State government.
- When the government decided to appoint them, the Lt. Governor referred it under proviso to Article 239AA (4) to the President stating that there is a difference of opinion between him and the government over this matter.
- In the meantime, the Lt. Governor appointed all the prosecutors whose names were submitted by the Delhi Police and thus the State government's list was rejected.

Can routine administrative matters be referred to the president?

A close reading of the Supreme Court judgment in the NCT Delhi case (supra) would reveal that the governor cannot refer routine administrative matters on account of "difference in views" as the Supreme Court says:

1. "The words 'any matter' employed in the proviso to Article 239AA (4) cannot be inferred to mean 'every matter'."
2. "The power of the Lieutenant Governor under the said proviso represents the exception and not the general rule which has to be exercised in exceptional circumstances by the Lt. Governor."
3. "Keeping in mind the standards of Constitutional trust and morality, the principles of collaborative federalism and the concept of Constitutional balance."

4. "The Lieutenant Governor should not act in a mechanical manner without due application of mind so as to refer every decision of the Council of Ministers to the President."

Matters of jurisdiction

- There is another point which emerges from the judgment and attention needs to be paid to it – the executive power of the Union does not extend to any of the matters which come within the jurisdiction of the Delhi Assembly.
- Parliament can legislate for Delhi on any matter in the State List and the Concurrent List but the executive power in relation to Delhi except the 'Police', 'Land' and 'Public Orders' vests only in the State government headed by the Chief Minister.
- The Supreme Court says, "Article 239AA (3)(a) reserves the Parliament's legislative power on all matters in the State List and Concurrent List but clause (4) explicitly grants to the Government of Delhi executive powers in relation to matters for which the Legislative Assembly has powers to legislate."
- The only occasion when the Union Government can overrule the decision of the State government is when the Lt. Governor refers a matter to the President under the proviso to clause (4). But this proviso cannot totally override the executive decisions of the State government under clause (4).
- The judgment of the Supreme Court resolves this apparent contradiction by enjoining the Lt. Governor to keep in mind while making a reference to the President the constitutional morality, principles of collaborative federalism, concept of constitutional governance, objectivity, etc.

The last word

- Supreme Court gives wise advice to the Lt. Governor: "We may reiterate that the Constitutional scheme adopted for the NCT of Delhi conceives of the Council of Ministers as the representatives of the people on the one hand and the Lt. Governor as the nominee of the President on the other who are required to function in harmony within the Constitutional parameters."
- "In the said scheme of things, the Lt. Governor should not emerge as an adversary having a hostile attitude towards the Council of Ministers of Delhi; rather, he should act as a facilitator."

JUDICIAL REMEDIES FOR J&K INTERNET RESTRICTIONS

Why in news?

The Central government has agreed to restore Internet in two districts in Jammu and Kashmir on a trial basis in response to the Supreme Court of India's approach.

Reasoning against Internet Shut Downs

The Special Rapporteur on Freedom of Opinion and Expression of the United Nations and representatives of other regional organisations, in a Joint Declaration, have pointed out that neither the slowing nor the shutting down of the Internet is justifiable even on national security grounds.

This is because Internet shutdowns or slowdowns are an inherently overbroad restriction for it adversely affects millions of innocent civilians owing to the actions of a few.

Adverse effects of shut-down of 4G services in J&K

The provision of 2G Internet on mobile phones after shutting-down of 4G services has failed to provide any meaningful respite to the people of J&K.

It has become impossible for them to adapt to the pandemic, by resorting, as the rest of India has, to online classes, working from home, tele-consults with doctors or even video calls with family.

Important industries such as tourism, handicrafts and agriculture have faced devastating losses.

Right of judicial review

Two arguments have been advanced to justify the Court's deferential approach.

First, that such decisions are not based on objective factors that can be presented to and assessed by a judicial body, but are based on the "subjective satisfaction" of officers who possess exclusive knowledge of the situation on the ground.

The second argument offered is that the Court does not have the competence to review matters of national security. However, this argument taken to its logical conclusion would imply that the Court cannot rule on any complex issue irrespective of its impact on fundamental rights.

The four-step test

The Court in Anuradha Bhasin recognised the proportionality test as the framework for such assessment, under which, the government must provide a four-step justification.

It has to show that:

1. **The restrictions are in pursuance of a legitimate aim (in this case, national security),**
2. **They are suitable to achieving that aim,**
3. **There exist no less restrictive alternatives that would limit the right to a lesser extent,**
4. **The adverse impact of the restrictions are proportionate to their benefit.**

CHINESE ENTITIES IN 'HAWALA' RACKET: ED

Why in news?

The Enforcement Directorate (ED) has initiated a money-laundering probe into a "hawala" racket allegedly involving some Chinese companies and shell entities that was unearthed by the Income-Tax Department earlier.

Details

- The Enforcement Directorate (ED) zeroed in on a Chinese national who had been living under a pseudonym holding a fake passport, and the department alleged that he used about 10 bank accounts, which were opened using fraudulent means.
- The agency said the operation was conducted on an information that some Chinese individuals and their Indian associates were involved in money laundering and "hawala" transactions through a several shell entities.

Illegal Betting

- The ED has registered a money-laundering case against a Chinese national and his three Indian accomplices, in connection with an illegal online gambling business involving transactions worth over Rs. 1,100 crore.
- The online gambling was being run by various entities, which functioned allegedly under the China-based "Beijing T Power Company."
- It is alleged that those running the websites manipulated results, thereby cheating those placing bets.
- The funds were diverted to various accounts to evade detection.

What is Hawala?

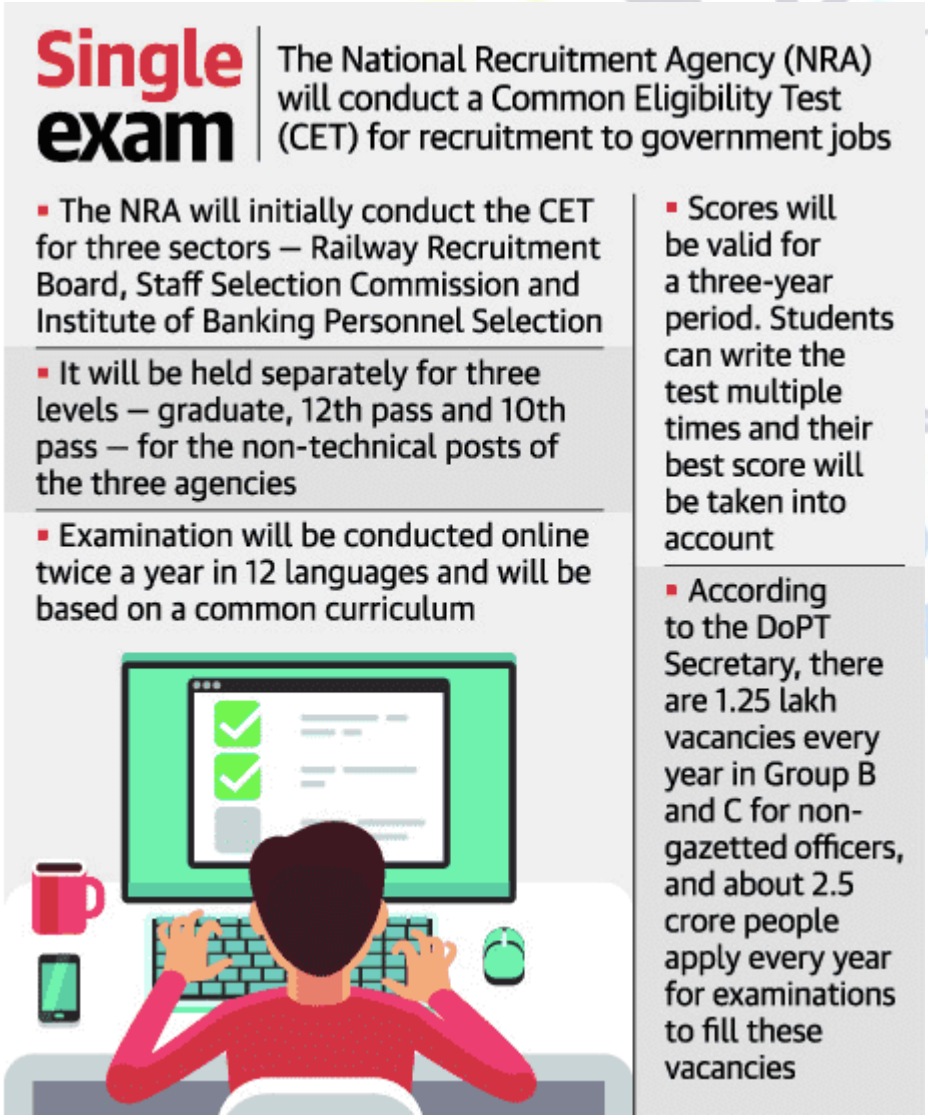
- Hawala is an informal method of transferring money without any physical money actually moving.
- Hawala is used today as an alternative remittance channel that exists outside of traditional banking systems.
- Hawala sometimes referred to as underground banking has been used since ancient times, and today are widely found among expats sending remittances home.
- Hawala provides anonymity in its transactions, as official records are not kept and the source of money that is transferred cannot be traced.
- **India has made hawala illegal due to its informal nature and absence of regulation or oversight.**

NATIONAL RECRUITMENT AGENCY TO CONDUCT COMMON ELIGIBILITY TEST

Why in news?

Cabinet approves creation of National Recruitment Agency (NRA), paving the way for a transformational reform in the recruitment process for central government jobs. This is not merely an administrative reform, but a huge socio-economic reform as well.

The present recruitment agencies– Staff Selection Commission (SSC), Railway Recruitment Board (RRB) and the Institute of Banking Personnel Selection (IBPS)— WILL CONTINUE TO REMAIN IN PLACE.



Recruitment Reform – a major boon for the youth

Issues

- At present, candidates seeking government jobs have to appear for separate examinations conducted by multiple recruiting agencies for various posts, for which similar eligibility conditions have been prescribed.
- Candidates have to pay fee to multiple recruiting agencies and also have to travel long distances for appearing in various exams.
- These multiple recruitment examinations are a burden on the candidates, as also on the respective recruitment agencies, involving avoidable/repetitive expenditure, law and order/security related issues and venue related problems.

Advantages to candidates

- On an average, 2.5 crore to 3 crore candidates appear in each of these examinations. A common eligibility Test would enable these candidates to appear once and apply to any or all of these recruitment agencies for the higher level of examination.
- The CET may also help in providing a level playing field for all candidates by removing the obstacles involved in appearing for multiple examinations.
- It will also prevent the issue of clashing examination dates.
- Removes the hassle of appearing in multiple examinations.
- Single examination fee would reduce the financial burden that multiple exams imposed.
- Since exams will be held in every district, it would substantially save travel and lodging cost for the candidates. Examination in their own district would encourage more and more women candidates also to apply for government jobs.

Advantages for Exam Conducting Agencies

- For the recruiting agencies, the savings in terms of logistics are huge.
- Removes the hassle of conducting preliminary/screening tests of candidates.
- Drastically reduces the time of recruitment cycle.
- Brings standardization in examination pattern.

Common Eligibility Test (CET)

- Till now various government bodies like Railway Recruitment Board (RRB) or Cell (RRC), Staff Selection Commission (SSC) and Union Public Service Commission (UPSC) and National Testing Agency (NTA) conducts the major government exams at Pan India level.
- **The Common Eligibility Test (CET) will be conducted to screen/shortlist candidates for the Group B and C (non-technical) posts – aiming to replace multiple examinations conducted by different recruiting agencies for selection to government jobs advertised each year, with a single online test.**

More details about CET

- The CET is to be conducted for three levels: (i) Graduate, (ii) Higher Secondary (12th Pass) and (iii) 10th Pass for those Non-Technical Posts to which recruitment is presently carried out by SSC, RRBs & IBPS.

- The CET will be held twice a year and the curriculum for CET would be common.
- The CET will be conducted in 12 major Indian languages. This is a major change, as hitherto examinations for recruitment to Central Government jobs were held only in English and Hindi.
- Initially, CET will cover recruitments made by three agencies : viz. SSC, RRB and IBPS at Group B and C (non -technical) posts. This will be expanded in a phased manner.
- CET will be held in 1,000 centres across India in a bid to remove the currently prevalent urban bias. There will be an examination centre in every district of the country. There will be a special thrust on creating examination infrastructure in the 117 aspirational districts.
- CET will be a first level test to shortlist candidates and the score will be valid for three years. The best of the valid scores shall be deemed to be the current score of the candidate.
- There shall be no restriction on the number of attempts to be taken by a candidate to appear in the CET subject to the upper age limit.
- Age relaxation for SC/ST and OBC candidates as per existing rules will apply.

What is National Recruitment Agency, NRA?

- National Recruitment Agency (NRA) is a multi-agency body that will hold Common Eligibility Test (CET) as a preliminary exam to shortlist candidates for Group B and C posts.
- The agency will be developed under the Societies Registration Act.
- NRA will have representatives of the Ministry of Railways, Ministry of Finance/Department of Financial Services, the SSC, RRB & IBPS, and will be headed by a Chairman of the rank of the Secretary to the Government of India.
- It is envisioned that the NRA would be a specialist body bringing the state-of-the-art technology and best practices to the field of Central Government recruitment.

Women candidates to benefit greatly

- Women candidates especially from rural areas face constraints in appearing in multiple examinations as they have to arrange for transportation and places to stay in places that are far away.
- They sometimes have to find suitable persons to accompany them to these Centres that are located far away.

- The location of test centres in every District would greatly benefit candidates from rural areas in general and women candidates in particular.

COMMITTEE FOR REFORMS IN CRIMINAL LAW: COLONIAL OR DECOLONIAL

Why in news?

- The Ministry of Home Affairs (MHA) constituted the Committee for Reforms in Criminal Law to undo the "colonial foundations of our criminal law".
- The precise mandate of the Committee has not been put into the public.
- Reforms based on the Committee's recommendations will have serious ramifications for every person who is subjected to the criminal justice system.

Introduction

- **A smoothly functioning legal system determines our freedom to live authentic lives as full citizens in a democratic polity.**
- Decolonisation is an ongoing process, which requires a commitment to undoing the colonial logic of domination governing citizen-state relations.

Concerns – Disabling Participation

Internet for Participation

- The Committee's procedures are designed to disable broad-based participation.

- The exclusive route to participation is the Committee's website.
- However, only about 40% of the population actively uses the Internet.
- Internet usage itself is linked to structural barriers – like women are less likely to have Internet access; and in Kashmir, Internet services are suspended.

Usage of English

- All the Committee's documentation and background resources, including 89 reports of the Law Commission of India (LCI), are in English.
- The most reliable estimates suggest that only 10% of the Indian population speaks English, and most such persons reside in urban areas.

Pandemic time limitation

- The life cycle of the Committee coincides with the COVID-19 pandemic.
- With several marginalised groups struggling to secure even rudimentary healthcare, education and employment during the harsh times of the Pandemic, it is inconceivable that they could participate meaningfully in a reform exercise of this scale at this moment in time.

Lack of representation

- There appears to be no representation on the Committee from subaltern caste, gender, sexual, or religious groups.
- There are no members on the Committee based outside of a limited geographic region in north India.
- It is crucial for a Committee tasked with transforming criminal justice to be more representative.
- It must include members who can speak to the experience of the many publics governed by the criminal law.

Current Situation of oppression

Oppressed communities across India are over-policed and under-protected.

- Religious minorities as well as the impoverished Dalit and Adivasi communities bear the brunt of criminal laws through police violence, long periods of undertrial detention, harsh punishments and poor legal representation.
- Women, transgender people, and sexual minorities, who overwhelmingly experience gender-based violence, are frequently let down by the criminal justice system.
- The Committee's composition and operation render democratic participation from these groups impossible.

Concerns – Disabling deliberation

- There is nothing to explain why an ad hoc Committee was set up for a task of this relevance and magnitude when such questions of law reform are typically entrusted to the LCI, which has established procedures to ensure inclusion and transparency.
- The Committee has not undertaken to publish the representations it receives from the public during its consultation process.
- There are no published Terms of Reference.

- There can be no contestation, debate or deliberation without the Committee communicating openly and honestly with all its interlocutors.
- The Committee is carrying out consultations from July to October 2020, and within three months, respondents are expected to form and articulate reasoned opinions on almost every conceivable issue of criminal law, procedure or evidence.

Deliberative democracy

- A deliberative vision of democracy requires that all members of society are able to participate in collective decision-making, and that decision-making takes place through reasoned deliberation.
- It recognises that participation in political processes is hindered by structural inequalities produced by interlocking systems of oppression, including caste, patriarchy, disablism and communalism.
- As a response to these hierarchies, deliberative democracy requires that everyone participates in decision-making by giving reasons for why they prefer a particular course of action.
- This reasoning must be made publicly available for others to contest.
- **Where political decision-making takes place in an open and transparent manner, oppressed groups can influence it through the strength of their reasons.**
- This can mitigate the extent to which a lack of economic, social or political power will otherwise compromise their participation.
- An inclusive, transparent and meaningful public consultation process for law-making is one practical way to implement a deliberative version of democracy.

PM-CARES CONTRIBUTION NEED NOT BE CREDITED TO NDRF: SC

Why in news?

The Supreme Court held that funds received into the PM-CARES Fund need not be credited to the National Disaster Response Fund (NDRF) for the fight against the COVID-19 pandemic.

Details

- The court held that there is "no statutory prohibition on individuals to make voluntary contributions to NDRF" under the Disaster Management Act of 2005.
- The government was of the stand that PM-CARES was a "public charitable trust" to which "anyone can contribute".

The provision of the act (that the Supreme Court left untouched) holds that the National Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation; special provisions to be made for widows and orphans; ex gratia assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood, among other things.

- The Prime Minister's Office (PMO) has denied a Right to Information request related to the PM-CARES Fund on the grounds that providing it would "disproportionately divert the resources of the office."
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- If such information is not made available, citizens have the right to request for it from the Authorities.
- This may include information in the form of documents, files, or electronic records under the control of the Public Authority.
- The intent behind the enactment of the Act is to promote transparency and accountability in the working of Public Authorities.

Background to the RTI Petition of PM CARES

- The Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM CARES) Fund was set to accept donations and provide relief during the COVID-19 pandemic, and other similar emergencies.
- After the announcement of the PM CARES fund an RTI Application was filed asking the PMO to provide the Fund's trust deed and all government orders, notifications and circulars relating to its creation and operation.
- The Petition was filed regarding the need of a PM CARES fund when the Prime Minister's National Relief Fund (PMNRF) was already existing.

CENTRE SAYS IT HAS NO ROLE IN PICKING CAPITAL

Why in news?

- The Central government has asserted that it has no role to play in determining the capital of Andhra Pradesh.
- The Centre said that the capital city of a state is decided by the respective state government.

The Story behind deciding the capital of Andhra Pradesh

Sri Krishna Committee report

- In 2010, a panel headed by Justice (Retd.) B.N. Srikrishna was formed to "bring about a permanent solution" to the Telangana statehood demand.
- In 2013, the Union Cabinet approved a Bill for the creation of Telangana State with 10 districts, paving the way for the bifurcation of Andhra Pradesh.

A.P. Reorganisation Bill

- The Bill envisages Hyderabad as the common capital. The Andhra Pradesh Governor will be Governor for both successor States of Andhra Pradesh and Telangana.
- The Centre will set up an apex council for the supervision of Krishna and Godavari rivers on water sharing.
- The High Court at Hyderabad will be common for both States till a separate High Court is set up for residuary Andhra Pradesh.

Regarding new capital for Andhra Pradesh

- Centre said it had formed an expert committee to study alternatives for a new capital for AP based on the AP Reorganization Act.
- The committee submitted its report based on which the government of AP notified that the capital city be named as Amaravati.
- The Andhra Pradesh state government, through the AP Decentralisation and Inclusive Development of all Regions Act, 2020, **provided for three seats of governance — Amaravati, Visakhapatnam and Kurnool. (3 capitals).**

Procedure for renaming a City

- The task of renaming a city is given to the State Legislators.
- The procedure differs from state to state but the regulations remains the same.

- The first step involves raising of a request in form of a resolution by any MLA, which proposes the renaming of any particular city or street.
- On the basis of the request of the MLA, the issue would be deliberated upon and the consequences of the same shall be discussed upon.
- The final step involves voting of the validity of the resolution.
- If a simple majority is attained in favour of the resolution, the said resolution shall be declared passed.
- The State Legislation on the basis of the majority view shall make the necessary changes in the name of the state or city public.
- The proposal will go to the Centre for approval before the city is officially renamed.

Procedure for renaming a state

- Unlike in the case of renaming cities, to change the name of a state, approval from the Centre's Ministry of Home Affairs (MHA) is required under provisions laid down in its 1953 guidelines.
- This means that a Constitutional amendment becomes necessary to affect this change.
- The Union MHA then takes over and gives it consent after it receives No Objection Certificates (NOCs) from several agencies such as the Ministry of Railways, Intelligence Bureau, Department of Posts, Survey of India and Registrar General of India.
- If the proposal is accepted, the resolution, introduced as a Bill in the Parliament, becomes a law and the name of the state is changed thereafter.

Renaming states in the constitution

The Constitution of India provides for the renaming of a state under **Article 3.**

The Article 3 provides for formation of new States and alteration of areas, boundaries or names of existing States

1. The procedure of renaming of the state can be initiated by either the Parliament or the State Legislator.
2. A bill for renaming a state may be introduced in the Parliament on the recommendation of the President.
3. Before the introduction of the bill, the President shall send the bill to the respective state assembly for expressing their views within a stipulated time.
4. The views of the state assembly are not binding; neither on the President nor on the Parliament.
5. But the process must not be skipped as it is of vital importance as any law so made will be affecting that particular state.
6. On the expiry of the period, the bill will be sent to the Parliament for deliberation.
7. The bill in order to take the force of a law must be passed by a simple majority.
8. The bill is sent for approval to the President.
9. After the approval of the said bill, the bill becomes a law and the name of the state stands modified.

BOMBAY HC: FIRS AGAINST TABLIGHI JAMAAT "SCAPEGOAT

Why in news?

The Bombay high court struck down criminal cases registered against 34 people, including 28 foreign Tablighi Jamaat members, in Maharashtra's Ahmednagar district, saying foreign nationals were virtually persecuted.

Details

- The Bombay High Court said that a political Government tries to find scapegoat when there is pandemic or calamity, and the circumstances show that there is probability that these foreigners were chosen to make them scapegoats.
- The material of the present matter shows that the propaganda against the so-called religious activity was unwarranted.

Background

- The Jamaat hit the headlines in March when authorities blamed a congregation at its headquarters in New Delhi's Nizamuddin area for a jump in Covid-19 infections. The headquarters was sealed and thousands of attendees, including foreigners from countries like Indonesia, Malaysia, and the US, were quarantined.
- The Jamaat, which has followers in over 80 countries, maintained many visitors at its headquarters were stranded after the government declared a lockdown to check the pandemic spread.
- The Centre blacklisted around 1,500 foreign Tablighi members for violating their visa norms and multiple cases were registered against them across the country.
- The high court said foreigners having valid visas to enter India cannot be prevented from visiting mosques if they go there to observe religious practices.

NEW OFFICE PREMISES FOR DELIMITATION COMMISSION

Why in news?

- New office premises for Delimitation Commission was opened recently, and it is hoped that formal deliberations with Associate Members would start soon to expedite the process of delimitation as envisaged.
- The Commission has kept 15th June 2020 as the date for freezing of administrative districts in these States/ UTs. Data collection work has also been completed.

Delimitation Commission

- The Delimitation commission (or Boundary commission) of India is a commission established by the Government of India under the provisions of the Delimitation Commission Act.
- Hence, Delimitation Commission is a **Statutory Body,** based on Delimitation Commission Act was enacted in 1952.
- Delimitation Commissions have been set up four times — 1952, 1963, 1973 and 2002 under the Acts of 1952, 1962, 1972 and 2002.

Important Points about the Delimitation Commission:

- The Delimitation Commission is appointed by the President of India and works in collaboration with the Election Commission of India.

- The main task of the commission is redrawing the boundaries of the various assembly and Lok Sabha constituencies based on a recent census.
- The representation from each State is NOT CHANGED during this exercise.
- However, the number of SC and ST seats in a state are changed in accordance with the census.
- The present delimitation of constituencies has been done on the basis of 2001 census under the provisions of Delimitation Act, 2002.
- The Commission is a powerful and independent body whose orders cannot be challenged in any court of law.
- The orders are laid before the Lok Sabha and the respective State Legislative Assemblies. However, modifications are NOT permitted.

Present Delimitation Commission of 2002

- In 2008, the Cabinet Committee on Political Affairs (CCPA) decided to implement the order from the Delimitation Commission.
- All future elections in India for states covered by the commission will be held under the newly formed constituencies.
- The present delimitation of parliamentary constituencies has been done on the basis of 2001 census figures under the provisions of Delimitation Act, 2002.
- However, the Constitution of India was specifically amended in 2002 not to have delimitation of constituencies till the first census after 2026.

Thus, the present constituencies carved out on the basis of 2001 census shall continue to be in operation till the first census after 2026.

Composition of Delimitation Commission

1. Retired Supreme Court judge
2. Chief Election Commissioner
3. Respective State Election Commissioners

In case of difference of opinion among members of the Commission, the opinion of the majority prevails.

What is Delimitation?

Delimitation literally means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province having a legislative body.

Delimitation is necessary in order to:

1. Provide equal representation to equal segments of a population,
2. Enabling fair division of geographical areas so that one political party doesn't have an advantage over others in an election, and
3. Follow the principle of "One Vote One Value".

Constitutional Provisions on Delimitation

- Under Article 82, the Parliament enacts a Delimitation Act after every Census.

- Under Article 170, States also get divided into territorial constituencies as per Delimitation Act after every Census. Once the Act is in force, the Union government sets up a Delimitation Commission.
- According to Article 81 of the Constitution — as it stood before the Constitution (Forty-second Amendment) Act, 1976 — the Lok Sabha was to comprise of not more than 550 members.
- Clause (2) of Article 81 provided that the number of seats in the House of the People that shall be allotted to each State – are in such manner that the ratio between the number if seats and the population of the State is, so far as practicable, the same for all States.
- Further, clause (3) defined the expression "population" for the purposes of Article 81 to mean the population as ascertained at the last preceding Census of which the relevant figures have been published.

Suspension of Delimitation

- The union government had suspended delimitation in 1976 until after the 2001 census so that states' family planning programs would not affect their political representation in the Lok Sabha.
- States which took a lead in population control faced the prospect of their number of seats getting reduced and States which had higher population figures stood to gain by increase in the number of seats in Lok Sabha.
- To allay this apprehension, through Forty-second Amendment the government froze the total Parliamentary and Assembly seats in each state till 2001 Census.
- This was done mainly due to wide discrepancies in family planning among the states and thus giving time to states with higher fertility rates to implement family planning to bring the fertility rates down.
- The constitution was again amended (84th amendment to Indian Constitution) in 2002 to continue the freeze on total number of seats in each state till 2026.

New Numbers:

- When the first Census figure will be available after 2026 — that is, in 2031 — a fresh delimitation will have to done which will dramatically alter the present arrangement of seat allocation to the States in Parliament.
- We might need a new building for Parliament altogether due to the likely increase in number of seats in both Houses after the lifting of the freeze imposed by the Constitution (Forty-second Amendment) Act, 1976, which is due in 2026.

DNA BILL CAN BE MISUSED, FLAGS DRAFT REPORT

Why in news?

The Bill that proposes DNA sampling and profiling of citizens accused of crime or reported missing and storing their unique genetic information for administrative purposes has some alarming provisions that could be misused for caste or community-based profiling, a draft report of the parliamentary standing committee on science and technology has flagged.

Introduction

- The DNA Technology (Use and Application) Regulation Act, 2019, has been in the works for 15 years now.
- Nearly 60 countries have enacted similar legislation with the U.S. bringing in a law as far back as in 1994.

What the committee said?

Sensitive info

- The committee, in its draft report, pointed out that the DNA profiles can reveal extremely sensitive information of an individual such as pedigree, skin colour, behaviour, illness, health status and susceptibility to diseases.
- Under the provisions of the Bill, access to such intrusive information can be misused to specifically target individuals and their families with their own genetic data.
- This is particularly worrying as it could even be used to incorrectly link a particular caste/community to criminal activities.

DNA database

- The report has red-flagged disregard to an individual's privacy and other safeguards.
- The Bill proposes to store DNA profiles of suspects, undertrials, victims and their relatives for future investigations.

While there is a good case for a DNA database of convicts, so that repeat offenders may be easily identified, there is no legal or moral justification for a database with DNA of the other categories as noted above, given the high potential for misuse.

'Perfunctory consent'

- In the Bill, if a person is arrested for an offence that carries punishment up to seven years, investigation authorities must take the person's written consent before taking the DNA sample.
- The Bill refers to consent in several provisions, but in each of those, a magistrate can easily override consent, thereby in effect, making consent perfunctory.
- There is also no guidance in the Bill on the grounds and reasons of when the magistrate can override consent, which could become a fatal flaw.

DNA Information retention after acquittance

- The Bill permits retention of DNA found at a crime scene in perpetuity, even if conviction of the offender has been overturned.
- The committee has urged the government to amend the provisions to ensure that if the person has been found innocent his DNA profile has to be removed immediately from the data bank.

Independent scrutiny

- The committee has recommended that independent scrutiny must be done of the proposals to destroy biological samples and remove DNA profiles from the database.
- The Bill also provides that DNA profiles for civil matters will also be stored in the data banks, but without a clear and separate index.
- The committee has questioned the necessity for storage of such DNA profiles, pointing out that this violates the fundamental right to privacy and does not serve any public purpose.

Why is the bill required?

- The Bill is urgently required as its applications would be to enable identification of missing children.
- As per the National Crime Records Bureau, annually 1,00,000 children go missing.

- The Bill will also help in identifying unidentified deceased, including disaster victims and apprehend repeat offenders for heinous crimes such as rape and murder.
- DNA testing is currently being done on an extremely limited scale in India
- The standards of the laboratories are not monitored or regulated.

DNA Technology (Use and Application) Regulation Bill, 2019

- The DNA Technology (Use and Application) Regulation Bill, also known as the DNA profiling bill, tries to check use of DNA technology to establish the identity of a person.
- According to the government, the DNA technology bill aims to establish the identity of missing persons, victims, offenders, under trials and unknown deceased persons.

Provisions

1. The Bill seeks to establish a national data bank and regional DNA data banks.
2. It envisages that every databank will maintain indices like the crime scene index, suspects' or undertrials' index, offenders' index, missing persons' index and unknown deceased persons' index.
3. It also seeks to establish a DNA Regulatory Board. Every laboratory that analyses DNA samples to establish the identity of an individual, has to be accredited by the board.
4. The bill also proposes a written consent by individuals be obtained before collection of their DNA samples. However, consent is not required for offences with punishment of more than seven years in jail or death.
5. It also provides for the removal of DNA profiles of suspects on the filing of a police report or court order, and of undertrials on the basis of a court order. Profiles in the crime scene and missing persons' index will be removed on a written request.

Background: DNA Profiling Bill and India – Timeline

- DNA evidence was first accepted by the Indian courts in 1985, and the Department of Biotechnology established a committee known as the DNA Profiling Advisory Committee to make recommendations for the drafting of the DNA profiling bill 2006 (the draft bill was never introduced in the Parliament).
- In 2016, the Use and Regulation of DNA based technology in Civil and Criminal Proceedings, Identification of Missing Persons and Human Remains Bill was listed for introduction, consideration and passing. Activists and experts raised concerns over the 2016 version of the bill.
- In 2016, Andhra Pradesh became the first state in India to start DNA profiling to stop crimes.
- In 2018, the Law Commission of India prepared the draft bill named the DNA Based Technology (Use and Regulation) Bill 2017.

The 2017 bill

- The commission examined various judicial pronouncements and constitutional provisions and recorded that DNA profiling was indeed used for disaster victim identification, investigations of crime, identification of missing persons and human remains and also for medical research purposes.
- However, it also flagged the privacy concerns and the ethics involved in this scientific collection of data were very high.
- The commission said the procedure for DNA profiling if given statutory recognition should be done legitimately as per the constitutional provisions.

International Guidelines on DNA Profiling

- On the international platform, in the case of DNA sampling and profiling, the privacy of an individual has not only been done through human rights but also through the guidelines issued for the use and maintenance of DNA.
- The DNA Commission constituted by the International Society for Forensic Genetics (ISFG) has issued strict guidelines in this regard.
- In case of an emergency, the Forensic DNA laboratory is required to first inform the concerned officer.
- Before taking the DNA sample of an injured or the deceased person, it is necessary to seek an opinion from the person or his family.
- At the time when a person's DNA is taken, the name of officer on duty should be clearly mentioned.
- There should be a guarantee to keep the investigation and collection private. At the same time, proper maintenance should be ensured.
- It is clearly mentioned in the ISFG's report that to streamline the process of DNA collection, it is important to make an accurate system and report. If many agencies are collecting DNA sample, then the clarity of the number of people and correct data must be ensured.
- Besides, there are strict provisions for getting the DNA test of a missing person done from a recognised laboratory. The laboratory should have long and authentic work experience. Apart from this, it is also necessary to have a centralised electronic database to collect all DNA samples.
- All countries including India has been following these guidelines.

The Science of it: DNA Profiling

- Deoxyribonucleic acid, commonly known as DNA, is the hereditary complex molecule present in humans and almost all other organisms.
- Nearly every cell in a multicellular organism possesses the full set of DNA required for that organism. Most DNA molecules consist of two bio polymer strands coiled around each other to form a double helix. The two strands are called polynucleotides since they are composed of simpler monomeric units called nucleotides.
- Each nucleotide is composed of one of four chemical bases: cytosine (C), guanine (G), adenine (A), thymine (T).
- It also has a sugar called deoxyribose and a phosphate group. These nucleotides create proteins that is needed for the cell.
- DNA contains all of the information necessary to build and maintain an organism including biological information.
- Although 99.9% of human DNA sequences are the same in every person, some of the DNA is unique that makes it possible to distinguish one individual from another.
- DNA can be extracted from the saliva, hair, blood samples, any small amount of the muscles or tissues of a person, nail scraping.
- DNA's molecular structure was first identified by James Watson and Francis Crick in 1953. They won the nobel prize for the same in 1962.
- With time, DNA technology evolved and in 1984, Bristish scientist Sir Alec John Jeffrey discovered the modern technology of DNA profiling.

- DNA Profiling is the process of determining an individual characteristic and most commonly used as a forensic technology to identify a person.

Arguments Against the Bill

- Many claim that the DNA profiling bill is a violation of human rights as it could compromise with the privacy of the individuals, that is because all the details of the person's body and his DNA profile will be with the state. The Supreme Court has recognised the Right to Privacy as a fundamental right.
- It will be used not only in the settlement of criminal cases but also in civil matters like using DNA profiling in matters such as surrogacy, maternity or paternity check, organ transplantation and immigration.
- The International Human Rights Declaration and the 1964 Helsinki agreement are also being cited for the case against it.
- The Universal Declaration of Human Rights 1948 adopted by the United Nations General Assembly expresses concern about the rights of human beings against involuntary maltreatment.
- The Declaration of Helsinki, 1964, set the guidelines adopted by the 18th World Medical Association General Assembly. It contains 32 principles, which stress on informed consent, confidentiality of data, vulnerable population and requirement of a protocol, including the scientific reasons of the study, to be reviewed by an Ethics Committee.

Arguments in favour of the Bill

- Individual privacy is ensured as the custodian of the databank will not release any information without a formal requisition. The one who is need of the DNA process i.e. investigator has to go through a requisition process via police. Data will be accepted from the investigators which will be matched with the data available in the databank.
- The DNA pattern will be kept in the DNA bank and that will be used whenever required for any purpose in national interest, police interest or forensic interest.
- DNA profiles will be kept under a government regulatory body with certain terms and references, hence, there is a very low chance of misuse.

PRIME MINISTERS AWARDS FOR EXCELLENCE IN PUBLIC ADMINISTRATION

Why in news?

For the year 2020, the scheme for Prime Minister's Awards for Excellence in Public Administration has been comprehensively restructured to recognize the contribution of civil servants in strengthening of:

1. **Inclusive Development through Credit Flow to the Priority Sector**
2. **Promoting people's movements – "Jan Bhagidari" through Swachh Bharat Mission (Urban and Gramin) in the District**
3. **Improving Service Delivery and Redressal of Public Grievances**

Details

- The scope of the awards has been expanded to identify areas of overall outcome-oriented performance in the districts across sectors.
- The contribution of District Collectors would be recognized for implementation of Inclusive Credit Flow to the Priority Sector, promoting people's movements through Jan Bhagidari and Improving Service Delivery and Redressal of Public Grievances.

- Further the Prime Minister's Awards for Excellence in Public Administration seek to recognize the efforts of District level officials in Namami Gange Program.
- The award for the Aspirational Districts Program has been revamped to reward the District having the best overall progress under the Scheme following 2 years of implementation.
- The Innovations category has traditionally received the highest number of nominations. The scheme has been broad based to recognize Innovations at National/ State / District level in 3 separate categories.

Background: Prime Minister's Awards for Excellence in Public Administration

- Government of India has instituted a scheme, "Prime Minister's Awards for Excellence in Public Administration" – to acknowledge, recognize and reward the extraordinary and innovative work done by Districts/ organizations of the Central and State Governments.
- The awards are given every year for Excellence in implementing identified Priority Programmes of Government of India and extraordinary and innovative work done by the Organizations of Central/ State Governments/ Districts in public governance.
- Two awards shall also be given to Organizations of Central/ State Governments / Districts for Innovations in environment conservation, disaster management, water conservation, energy, education and health, women and child centric initiatives etc., of which one shall be given for innovations by Aspirational districts, under the Aspirational Districts Programme (ADP).

CSS SCHEMES IN CANTONMENT AREAS

Why in news?

Ministry of Defence and Directorate General of Defence Estates (DGDE) organised a webinar to improve implementation of Centrally Sponsored Schemes (CSS) in 62 cantonments around the country.

Highlights

- This webinar was an important step towards seamless delivery of benefits of various centrally sponsored schemes and in improving the overall wellbeing of approximately 21 lakh residents in the cantonments.
- It was organised with the objective to have better understanding of the implementation mechanism and funding of various Centrally Sponsored Schemes and to prepare a roadmap for extending the benefits of these to the residents of cantonment areas.

Cantonment Areas

- In India Cantonment areas were (and are) primarily meant to accommodate the military population and their installations.
- In terms of Entry 3 of Union List (Schedule VII) of the Constitution of India, Urban Self Governance of the Cantonments and the Housing Accommodation therein is the **subject matter of the Union of India.**
- There are 62 Cantonments in the country which have been notified under the Cantonments Act, 1924 (succeeded by the Cantonments Act, 2006).
- The overall municipal administration of the notified Cantonments is the function of the Cantonment Boards which are democratic bodies.
- **Cantonments are different from the Military Stations in that the Military Stations are purely meant for the use and accommodation of the armed forces and these are established under an executive order whereas the Cantonments are areas which comprise of both military and civil population.**

- Kanpur Cantonment is the largest cantonment in India, both by area and population.

ARMED FORCES TRIBUNAL

Why in news?

- Armed Forces Tribunal (AFT) Chairperson has inaugurated hearings by video conferencing for all ten Regional Benches of the Armed Forces Tribunal.
- The Principal Bench of Armed Forces Tribunal is the only court that has been conducting physical hearings in 2020 during lockdown – taking into account hardships and limitations faced by Armed Forces personnel, retired as well as serving, primarily due to their far-flung locations and various security related issues.

Armed Forces Tribunal

- Armed Forces Tribunal is a military tribunal in India. It was established under the Armed Forces Tribunal Act, 2007 – hence, it is a **Statutory Body.**
- Armed Forces Tribunal (AFT) is provided with the powers for the adjudication or trial of disputes and complaints with respect to commission, appointments, enrolments and conditions of service in respect of persons subject to the Army Act, 1950, The Navy Act, 1957 and the Air Force Act, 1950.
- The AFT can further provide for appeals arising out of orders, findings or sentences of courts- martial held under the said Acts and for matters connected therewith or incidental thereto.
- Besides the Principal Bench in New Delhi, AFT has Regional Benches at Chandigarh, Lucknow, Kolkatta, Guwahati, Chennai, Kochi, Mumbai and Jaipur.
- Each of the Regional Benches have a single bench (Except Chandigarh and Lucknow which have 3 benches each) comprising of a Judicial Member and an Administrative Member.
- The Judicial Members are retired High Court Judges and Administrative Members are retired Members of the Armed Forces who have held rant of Major General/ equivalent or above for a period of three years or more, Judge Advocate General (JAG), who have held the appointment for at least one year are also entitled to be appointed as the Administrative Member.
- **The Tribunal will normally follow the procedure as is practiced in the High Courts of India.**

PRADHAN MANTRI RASHTRIYA BAL PURASKAR 2021

Why in news?

Ministry of Women and Child Development has invited nominations for the Pradhan Mantri Rashtriya Bal Puraskar-2021 from children, individuals and institutions.

Pradhan Mantri Rashtriya Bal Puruskar

- The Pradhan Mantri Rashtriya Bal Puraskar (formerly known as the National Child Award for Exceptional Achievement) **is India's Highest Civilian Honour bestowed upon exceptional achievers under the age of 18.**
- The award was instituted by the Ministry of Women and Child Development, Government of India in 1996 to recognize children with exceptional abilities and outstanding status in various fields such as academics, arts, culture, design, innovation, research, social service, and sports.
- The award is conferred by the President of India in the week preceding the Republic Day where the nation's other prestigious civilian honours like the Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri are also presented. (Previously, the awards were conferred on Children's Day).

- The awardees also participate in the Republic Day Parade.
- A National Selection Committee, headed by Minister, MWCD or MoS, MWCD will finalize the names of the awardees for the Pradhan Mantri Rashtriya Bal Puraskar.
- These awards are given under two categories – Bal Shakti Puraskar and Bal Kalyan Puraskar.
- Bal Shakti Puraskar aims to give recognition to children who have achieved extraordinarily in various fields including innovation, scholastic, sports, art & culture, social service and bravery.
- Bal Kalyan Puraskar is given as recognition to Individuals and Institutions, who have made an outstanding contribution towards service for children in the field of child development, child protection and child welfare.

NGT SLAMS MINISTRY'S REPORT

Why in news?

The National Green Tribunal has slammed the Ministry of Environment and Forests (MoEF) over its report on the National Clean Air Programme (NCAP) which proposes 20-30% reduction of air pollution by 2024.

Details

- The NGT disapproved the submission of the MoEF that a committee, upon further deliberation, has concluded that 20-30% pollutant reduction under the NCAP seems realistic.
- It said the MoEF's view was against the constitutional mandate under Article 21.

Right to Life

- Right to Clean Air stood recognised as part of Right to Life and failure to address air pollution was denial of Right to Life.
- The tribunal said the enforcement of 'Sustainable Development' principle and 'Public Trust Doctrine' required stern measures to be adopted to give effect to the mandate of international obligations for which the Environment (Protection) Act, 1986 and other laws had been enacted.
- Under the NCAP, the target was to achieve norms in 10 years and reduce load to the extent of 35% in first three years with further reduction of pollution later.
- It meant for 10 years pollution would remain unaddressed which was too long period of tolerating violations when clean air was Right to Life.
- The Tribunal also said that Non-Attainment Cities (NACs) cover cities where standards were not consecutively met for five years.

No data

- There is no data how much pollution has been reduced in the last two years – 2018-2020.
- The tribunal said the NCAP for reduction of air pollution did not fully meet the mandate of sustainable development.
- Violation of laid down air pollution levels resulting in large number of deaths and diseases needed to be addressed expeditiously.
- Targeted time of reduction of pollution loads needed to be reduced and planned steps needed to be sternly implemented on the ground. The MoEF might take further action as per law, the Bench said.

National Clean Air Programme (NCAP)

- The Central Government has launched the National Clean Air Programme (NCAP) to reduce particulate matter (PM) pollution.
- NCAP is the first ever effort in the country to frame a national framework for air quality management with a time-bound reduction target.
- India has an overall target to reduce hazardous PM levels by 20-30% by 2024 from their 2017 levels in 122 cities under the NCAP which was launched in 2019.
- Central Pollution Control Board (CPCB) will execute this nation-wide programme in consonance with the section 162 (b) of the Air (Prevention and Control of Pollution) Act, 1986.
- The Ministry of Environment, Forest and Climate Change (MoEFCC), as a nodal central and apex agency, will have to flex its authority to ensure all NCAP indicators are integrated with multi-sector and inter-ministerial programmes to align with the air quality target and objectives.
- The plan includes 102 non-attainment cities, across 23 states and Union territories, which were identified by Central Pollution Control Board (CPCB) on the basis of their ambient air quality data between 2011 and 2015.
- Non-attainment cities are those which have been consistently showing poorer air quality than the National Ambient Air Quality Standards. These include Delhi, Varanasi, Bhopal, Kolkata, Noida, Muzaffarpur, and Mumbai.
- As part of the programme, the Centre also plans to scale up the air quality monitoring network across India.

Objectives of NCAP

1. To augment and evolve effective and proficient ambient air quality monitoring network across the country for ensuring comprehensive and reliable database
2. To have efficient data dissemination and public outreach mechanism for timely measures for prevention and mitigation of air pollution and for inclusive public participation in both planning and implementation of the programmes and policies of government on air pollution
3. To have feasible management plan for prevention, control and abatement of air pollution.

Approach of NCAP

Collaborative, Multi-scale and Cross-Sectoral Coordination between relevant Central Ministries, State Government and local bodies.

Focus on no Regret Measures, Participatory and Disciplined approach.

BUREAU OF POLICE RESEARCH AND DEVELOPMENT (BPR&D)

Why in news?

The Bureau of Police Research and Development (BPR&D) is celebrating its Golden Jubilee Anniversary soon (50 years since its establishment on 28th August, 1970).

Bureau of Police Research and Development (BPR&D)

- The Bureau of Police Research and Development (BPR&D), was set up in furtherance of the objective of the Government of India for the **modernisation of police forces.**
- It has evolved as a multifaceted, consultancy organisation, and at present it has 4 divisions – Research, Development, Training and Correctional Administration.

Reasons for creation:

1. To take direct and active interest in the issues
2. To promote a speedy and systematic study of the police problems,
3. To apply science and technology in the methods and techniques used by police.

Functions

Research Division:

- Analysis and study of crime and problems of general nature affecting the police
- Assistance of Police Research programmes in States and Union Territories
- Work relating to Standing Committee on Police Research
- Maintenance of all India statistics of crime

Publication of:

1. Police Research & Development Journal
2. Crime in India
3. Indian Police Journal
4. Accidental Deaths and Suicides
5. Research Reports and News Letters
6. Reports, Reviews, other journals and books relating to matters connected with police work

Development Division

- Review of the performance of various types of equipment used by the police forces in India and development of new equipment
- Liaison with the National laboratories, Indian Ordnance Factories and other organisations
- Police publicity and police publicity files, police weeks and parades

Training Division

- To review from time to time the arrangements for Police training and the needs of the country in this field in the changing social conditions
- Introduction of scientific techniques in training and in police work and to formulate and coordinate training policies and programmes in the field of police administration and management.
- To help devise new refresher, promotion, specialist and orientation courses

Correctional Administration

- Analysis and study of prison statistics and problems of general nature affecting Prison Administration
- Coordination of Research Studies conducted by RICAs and other Academic/Research Institutes in Correctional Administration
- To set up an Advisory Committee to guide the work relating to Correctional Administration

DRAFT HEALTH DATA MANAGEMENT POLICY

Why in news?

- The National Health Authority (NHA) has released the Draft Health Data Management Policy of the National Digital Health Mission (NDHM) in the public domain.
- The draft has been released on the website of the NDHM; made available for public comments and feedback, it will be finalised after receiving suggestions from public.
- One of the main objectives of the draft policy is to provide adequate guidance and to set out a framework for the secure processing of personal and sensitive personal data of individuals who are a part of the national digital health ecosystem.

Introduction

- A personal health record (PHR) is a health record where health data and other information related to the care of a patient is maintained by the patient.
- An electronic health record (EHR) is the systematized collection of patient and population electronically-stored health information in a digital format, which can be shared across different health care settings.
- In India, there is an increase in the magnitude of digitization of healthcare services in various healthcare delivery institutions.
- However, the digitised medical records in India now, are more institution centric as these are limited to specific/ defined healthcare delivery institutions only.
- Further, the clinical data resides in silos and usually, access of this data is not extended to the patients, who often struggle with paper-based record keeping.

India's Steps – Personal Health Record (PHR)

- The Union Ministry of Health and Family Welfare had developed an app in 2019 which allows users to store their detailed health profile, past prescriptions, lab records and diagnoses at one platform that they can share with medical professionals when they need.
- The app precludes the need to carry medical records when patients visit their doctors.
- The app, 'My Health Record,' was developed by the Centre for Development of Advanced Computing under the Ministry for Information Technology.
- The app, equipped with multi-factor authentication, is part of a mega National Digital Health Blueprint that the Centre has prepared after wide consultations.
- This move is aimed at empowering people with a one-stop forum to store all the details of their health which they can share with professionals even if they are not carrying physical files around.

What is the National Health Stack (NHS)?

Unveiled by the NITI Aayog in 2018, NHS is digital infrastructure built with the aim of making the health insurance system more transparent and robust.

There are five components of NHS:

1. Electronic national health registry that would serve as a single source of health data for the nation;

2. Coverage and claims platform that would serve as the building blocks for large health protection schemes, allow for the horizontal and vertical expansion of schemes like Ayushman Bharat by states, and enable a robust system of fraud detection;
3. Federated personal health records (PHR) framework that would serve the twin purposes of access to their own health data by patients, and the availability of health data for medical research, which is critical for advancing the understanding of human health;
4. National health analytics platform that would provide a holistic view combining information on multiple health initiatives, and feed into smart policymaking, for instance, through improved predictive analytics; and
5. Other horizontal components including a unique digital health ID, health data dictionaries and supply chain management for drugs, payment gateways, etc., shared across all health programmes.

What is National Digital Health Mission (NDHM)?

- To establish and manage the core digital health data and the infrastructure required, National Digital Health Mission (NDHM), was recommended to be established as a purely government organization with complete functional autonomy on the lines of Unique Identification Authority of India (UIDAI) and Goods and Services Network GSTN.
- The Objectives of NDHB are aligned to the Vision of National Health Policy 2017 and the Sustainable Development Goals (SDGs) relating to the health sector.

The Main Objectives of NDHM are:

1. Promoting the adoption of open standards by all the actors in the National Digital Health Ecosystem (NDHE), for developing several digital health systems that span across the sector from wellness to disease management.
2. Creating a system of Personal Health Records, based on international standards, and easily accessible to the citizens and to the service providers, based on citizen-consent.
3. Following the best principles of cooperative federalism while working with the States and Union Territories for the realization of the Vision.
4. Promoting Health Data Analytics and Medical Research.

National Digital Health Blueprint (NDHB), released by Union Minister of Health and Family Welfare in 2019, handles the requirements of Unique identification of Persons, Facilities, Diseases and Devices through 2 Building Blocks, namely, Personal Health Identifier (PHI), and Health Master Directories & Registries.

Way Forward: Towards Successful Digitization

- To enable seamless data exchange, all users must be incentivised or mandated to adopt a standard language of communication.
- India must harness advances in voice recognition, natural language processing, and machine learning to ignite its health data ecosystem without straining its over-burdened physicians and community health workers.
- The concerns with universal IDs are particularly salient when it comes to sensitive personal data like health data, and hence the security concerns must be addressed thoroughly.
- Hospital ethics boards and national data privacy laws are only now grappling with difficult questions about third-party use, hence, formulation of stringent rules and policies regarding the use and storage of sensitive data collected and implementation of these rules will be crucial.

- The proposed NDHM architecture, if executed as intended, has two distinguishing characteristics that may help ameliorate the concerns regarding data – the NDHM is non-prescriptive, and steers away from designing a monolithic EMR (electronic medical record) and instead only provides the scaffolding upon which the market can compete to develop a range of applications that would facilitate data exchange between patients, providers and payers.
- The NDHM architecture seeks to protect patients by the rather elegant use of the consent manager framework that has already been successfully used by the Universal Payment Interface.

Conclusion

The portability of clinically-relevant data across private-public divides and states will cut costs and save time, the ability to monitor compliance, say, with responsible use of antibiotics, can profoundly alter practice and improve the quality of care, and the ability to conduct timely institution-based syndromic surveillance may alter the course of an epidemic, and of a nation.

SC: STATES CAN HAVE SUB-GROUPS AMONG SCS/STS

Why in news?

A Supreme Court held that States can sub-classify Scheduled Castes and Scheduled Tribes in the Central List to provide preferential treatment to the "weakest out of the weak".

Supreme Court's views: 'Struggle within castes'

- There is a "caste struggle" within the reserved class as benefit of reservation are being usurped by a few, the court pointed out.
- The State cannot be deprived of the power to take care of the qualitative and quantitative difference between different classes to take ameliorative measures.
- This judgment is significant as it fully endorses the push to extend the creamy layer concept to the Scheduled Castes and Scheduled Tribes.
- The judgment records that "once a mortgage always a mortgage" cannot be pressed into service for submitting that once a backward class of citizens, always such a backward class.
- "Citizens cannot be treated to be socially and educationally backward till perpetuity; those who have come up must be excluded like the creamy layer," the judgment said.

With this, the Bench took a contrary view to a 2004 judgment delivered by another Coordinate Bench of five judges in the E.V. Chinnaiah case. The Chinnaiah judgment had held that allowing States to unilaterally "make a class within a class of members of the Scheduled Castes" would amount to tinkering with the Presidential list.

On 'Tinkering with the list'

- The Central List of Scheduled Castes and Tribes is notified by the President under Articles 341 and 342 of the Constitution.
- The consent of the Parliament is required to exclude or include castes in the List. In short, States cannot unilaterally add or pull out castes from the List.
- The Current judgment reasoned that sub-classifications within the Presidential/Central List does not amount to "tinkering" with it. No caste is excluded from the list.
- The States only give preference to weakest of the lot in a pragmatic manner based on statistical data.
- **Preferential treatment to ensure even distribution of reservation benefits to the more backward is a facet of the right to equality.**

Recently in news: Commission for sub-categorization of OBCs

The Union Cabinet has approved the extension of the term of the Commission to examine the issue of Sub-categorization of Other Backward Classes.

Commission for sub-categorization of OBCs

- G. Rohini Commission is constituted to examine the issue of Sub-categorization of Other Backward Classes (OBCs) in Central List.
- The commission has been established under Article 340 of Constitution.
- This is the first government-mandated exercise to quantify the skewed flow of benefits among different OBC communities and suggest steps to correct the imbalance.
- The Commission had clarified its stand on fixing OBC quotas based on current representation in reserved seats, and not on social hierarchy.

Functions of the Commission:

- The commission will examine extent of inequitable distribution of benefits of reservation among castes included in broad category of OBCs.
- It will also take up exercise of identifying respective castes/sub-castes/communities synonyms in Central List of OBCs and classify them into their respective sub-categories.
- It will work out mechanism, norms, criteria and parameters, in scientific approach, for sub-categorization within such OBCs.

History of Sub-categorization

- The First Backward Class Commission report of 1955, also known as the Kalekar report, had proposed sub-categorisation of OBCs into backward and extremely backward communities.
- In 2015, former National Commission for OBCs asked for sub-categorisation within OBCs into Extremely Backward Classes (Group A), More Backward Classes (Group B) and Backward Classes (Group C).
- Presently, ten states, including Tamil Nadu, Karnataka, Andhra Pradesh, Telangana, Haryana, Jharkhand, Bihar, West Bengal, Maharashtra, and Jammu, have sub-categorised OBCs.
- The criteria used by the states were various, including the ascribed status such as denotified, nomadic or semi-nomadic tribes, the religion of a community, caste status before conversion to Christianity or Islam, and perceived status socially or traditional occupation.

Importance and Need of Sub-categorisation

- Sub-categorisation of OBCs aims to ensure more equitable distribution of reservations in government jobs and educational institutions.
- Sub-categorisation is important to ensure that dominant groups among OBCs do not corner all benefits.
- Five-year data on OBC quota implementation in central jobs and higher educational institutions showed that a very small section has cornered the lion's share.
- In the past under article 340, Mandal commission was appointed had recommended 27% reservation for socially and educationally backward classes.
- At present, there is no sub-categorisation and 27% reservation is a rigid and uniform entity.

- This Commission will address the inefficiency in preventing large sections of the creamy layer from taking advantage of the quota system to the detriment of the poorer sections among their own caste groups in the past.

Article 340

The President may by order appoint a Commission to investigate the conditions of socially and educationally backward classes within the territory of India, and the difficulties under which they labour. The commission is mandated to make recommendations as to the steps that should be taken by the union or any state to remove such difficulties and as to improve their condition.

NATIONAL SPORTS AND ADVENTURE AWARDS, 2020

Why in news?

- In a first ever virtual presentation of awards, the President of India gave away the National Sports and Adventure Awards, 2020.
- The Sports Minister announced the enhancement of the prize money in four of the seven categories of the National Sports and Adventure Awards.
- A twelve-member committee evaluates the performances of a sportsperson at various levels and submits their recommendations to the Union Minister of Youth Affairs and Sports for further approval.
- The main objectives of the award are motivation and social recognition of a sports person.

National Sports and Adventure Awards

National Sports Awards are given every year to recognize and reward excellence in sports.

It comprises the following awards:

1. **Rajiv Gandhi Khel Ratna:** It is the **Highest Sporting Honour of India.** It was instituted in 1991–92. The recipient(s) is/are honoured for their outstanding performance in the field of sports over a period of four years at international level.
2. **Dronacharya Awards:** It was instituted in 1985 to honour eminent Coaches for producing medal winners at prestigious International sports events.
3. **Arjuna awards:** It was instituted in 1961. To be eligible for the Award, a sportsperson should have had not only good performance over the previous four years at the International level but also should have shown qualities of leadership, sportsmanship and a sense of discipline.
4. **Dhyan Chand Award:** It was instituted in 2002. It is an award for life-time achievements in sports.
5. **Tenzing Norgay National Adventure Award:** It is the highest national recognition for outstanding achievements in the field of adventure on land, sea and air.
6. **Maulana Abul Kalam Azad (MAKA) Trophy:** It was instituted in 1956-57 to honour the top overall performing university in the Inter-University Tournaments.
7. **Rashtriya Khel Protsahana Purushkar:** It was instituted from 2009 to recognize the corporate entities (both in private and public sector) and individuals who have played a visible role in the area of sports promotion and development.

HOW PUBLIC POLICY IN SOCIAL MEDIA WORKS?

Introduction

- Last week, a committee of the Delhi Legislative Assembly took up Facebook's alleged "inaction" due to reports that a top executive of Facebook in India had "opposed applying hate-speech rules" to users linked to the ruling party, citing business imperatives.
- Facebook has been accused of bias, of not doing enough to discourage hate speech, and of letting governments influence content decisions on the platform.

History of the debate

- Back in 2009, when Facebook had only 200 million users (fewer than its current user base in India), critics noticed Holocaust deniers on the platform – and German prosecutors launched an investigation against the company's local head executive for abetment of violent speech.
- In the run-up to the 2016 presidential election in the United States, Facebook allowed videos posted by then candidate Donald Trump that violated their guidelines, saying the content was "an important part of the conversation around who the next US President will be".
- In 2018, Facebook admitted to having failed to prevent human rights abuses on the platform in Myanmar.

Regulations in place

- Internet regulations in several countries (including India's Section 66A of The Information Technology Act) protect platforms from having immediate liability for content, ostensibly to guard against over-censoring.
- Because of rising frustrations, however, governments are threatening those legal protections.

How content moderation works

- The vast majority of content on Facebook is flagged by an algorithm if it violates company rules.
- Users can manually flag content, which gets directed to content moderators sitting in contracted offices all over the world.
- If the content comes to these Facebook employees in a team called 'Strategic Response', they can rope in other local teams.
- Public policy is often involved if there are certain sensitive risk factors, such as political risk, that need to be considered.
- If internal groups disagree, the decision is escalated, potentially all the way up to Zuckerberg himself.

The situation in India

- The Wall Street Journal report said Facebook's top public policy executive in India cited government-business relations to not apply hate-speech rules to certain individuals and groups liked to a particular party which are internally flagged for violent speech.
- The report's findings on a "pattern of favoritism" towards the party calls into question the personal political leanings of company officials, and their ability to dominate content deliberations in these processes.
- Some technology policy experts have called for a thick line between public policy and content moderation, while others have criticised the processes as "informal and opaque".
- Traditionally, public policy roles have entailed government relations. This model doesn't extend itself well to social platforms though.

- There is an inherent conflict when government relations and policy enforcement go to the same set of people or organisation units.
- The real concern is the lack of public transparency and insufficient internal accountability in decision-making when it comes to content moderation.
- The problem in the recent revelations regarding Facebook India is public policy teams having the apparent ability to veto or block these decisions based exclusively on business considerations.

The platforms are reacting by self-regulating in a manner that imperils free expression while failing to truly address the problem of hyper-local harmful speech.

What is the Information Technology (IT) Act?

- The Information Technology Act, 2000 is the primary law in India dealing with cybercrime and electronic commerce.
- The laws apply to the whole of India. If a crime involves a computer or network located in India, persons of other nationalities can also be indicted under the law.
- The Aim of the Act was to provide legal infrastructure for e-commerce in India.
- The Information Technology Act, 2000 also aims to provide for the legal framework so that legal sanctity is accorded to all electronic records and other activities carried out by electronic means.
- It also defines cyber-crimes and prescribes penalties for them.

Section 66A of IT Act – Struck down

- Section 66A of the IT Act has been enacted to regulate the social media law India and assumes importance as it controls and regulates all the legal issues related to social media law India.
- This section clearly restricts the transmission, posting of messages, mails, comments which can be offensive or unwarranted.
- The offending message can be in form of text, image, audio, video or any other electronic record which is capable of being transmitted.
- In the current scenarios such sweeping powers under the IT Act provides a tool in the hands of the Government to curb the misuse of the Social Media Law India in any form.
- However, in 2015, in a landmark judgment upholding the right to free speech in recent times, the Supreme Court in Shreya Singhal and Ors. Vs Union of India, struck down Section 66A of the Information & Technology Act, 2000.
- The judgment had found that Section 66A was contrary to both Articles 19 (free speech) and 21 (right to life) of the Constitution.
- The repeal of 66A does not however result in an unrestricted right to free speech since analogous provisions of the Indian Penal Code (IPC) will continue to apply to social media online.

TREATING DATA AS COMMONS

Introduction

- The Gopalakrishnan Committee set up by the government on developing a governance framework for non-personal data recently put out its draft report for public consultation.

- The report's main purpose is to ensure wide sharing and availability of data in society.
- To ensure that companies share the required data, it was found necessary to develop strong conceptual and legal basis for data-sharing requirements and obligations.
- There are two key infrastructural components of a digital economy: data and cloud computing. The Gopalakrishnan report focuses on the infrastructural element of data.

Digital vertical integration

- The digital age came with useful digital services that everyone lapped up, and many of these services were free or highly subsidised.
- The infrastructure versus over-the-top services distinction becomes important as digital corporations begin to dominate all sectors, including important ones such as education and health.
- That very few corporations have vertically integrated all the digital components involved in delivery of any digital service is the reason for their becoming such huge global monopolies.
- Seven out of the top 10 companies globally today have a data-centric model.
- Such unsustainable concentration of digital power has a significant geopolitical dimension, with complete domination globally of U.S. and Chinese companies.
- At the national level its deleterious effect is of exploitation of consumers and small economic actors, and of strangulating competition and innovation.

What we need

- Infrastructures are to be equitably provided for all businesses. Data have similar characteristics.
- Dominant digital corporations are building exclusive control over any sector's data as their key business advantage.
- What is needed, however, is to treat data as infrastructure, or 'commons', so that data are widely available for all businesses.
- The digital businesses then shift their key business advantage from exclusive access to data to employing available data for devising digital services for consumers' benefit.

Reducing digital dependence

- The Gopalakrishnan committee takes such an infrastructural view of data.
- Data collected from various communities are considered to be 'owned' by the relevant community.
- Such 'community ownership' means that the data should be shared back with all those who need it in society, whether to develop domestic digital businesses or for producing important digital public goods.
- With a robust domestic data/AI industry, dependence on U.S. and Chinese companies will reduce.
- It is for these purposes that the Gopalakrishnan committee proposes the concept of 'community data'.

'Community Data' Proposal

- Only the data collected from non-privately-owned sources, from society or community sources, have to be shared when requested for.
- Data from privately owned sources remain private.

- Since a community requires a legally recognisable body to articulate its data ownership claim, the committee introduces the concept of community trustees that could be various bodies representative of the community.
- Data collectors are considered as data custodians that will use and secure data as per the best interests of the community concerned.
- Data trusts are data infrastructures that will enable data sharing, sector-wise, or across sectors, and which can be run by various kinds of third-party bodies.
- The committee recommends a new legislation, because ensuring and enforcing data sharing will require sufficient legal backing.
- A Non-Personal Data Authority is also envisaged to enable and regulate all the envisaged data-sharing activities.

Conclusion

- India is the first country to come up with a comprehensive framework in this area.
- Starting early in this important digital policy and governance area may just provide a formidable first mover advantage for India to acquire its rightful place in the digital world.

A 'NEW' DEMOCRACY

Introduction

- The 'democracy' that a major part of our world swears by comprises free and fair, multi-party, fixed-term elections based on universal adult franchise in its ideal state.
- A contestant party winning the majority of votes represents the will of the electorate and gets to form the government; others sit in the opposition until the next election.

Complexity beyond simplicity

- The 'majority of votes' actually boils down to the majority of seats in the legislature which, most of the time, comes riding a minority of votes. Rarely is a government formed backed by a majority of votes won in a free and fair election.
- Besides the fact that this democracy is far from becoming universal even well into the 21st century, its own life history is just a tiny dot on the canvas of time: short of a hundred years.
- Democracy did not come alone; its accoutrements included guaranteed individual rights and freedoms, free market economy, equality of all citizens, freedom of life and property, etc. — inviolable constituents of capitalism.
- Elections created space for change of governments even as they guaranteed security against challenge to the regime; the challenge could arise only outside of it, through 'revolutions', which in turn had much contracted the space even for a change of government and none for a change of regime.
- In the end, most 'revolutions' could not escape the dragnet of 'democracy', their existential as well as conceptual adversary.
- One of democracy's primary premises, free market, which 'revolutions' had sought to eradicate, is now under threat not from its adversary but from its own internal dynamics.
- The unprecedented concentration of wealth at the top 1% around the world knocks the bottom out of competition in the market, so integral to its freedom.

The principle and the form

- High concentration of wealth is getting to impact the system's political functioning by replicating the process.
- The hollowing out of this foundational principle of capitalism while retaining its form is also running parallel in the other freedoms, other constituents of 'democracy' by hollowing out the substance of even free and fair elections and individual freedoms while retaining the form.

Distortions Injected into the Electoral Process

- Control and misuse of the institutions responsible for carrying out the process;
- The creation of an atmosphere of delegitimisation of dissent or protest vis-à-vis the government by counter-posing the demands of unquestioning patriotism or nationalism to it;
- Using the sentiment of patriotism to circumscribe the dispensation of fair justice;
- The control of the flow of information through the 'independent' media;
- Setting up of professionally organised mechanisms for creating and propagating fake news;
- Creating and promoting hatred between communities of people through patronising identity politics and using frenzy in lieu of reason as a mobiliser of votes;
- Meting out the harshest treatment to the most prominent dissenting voices by lodging them in prison on fake charges.

A global scenario

- If this concentration of wealth and political power was the case with one country or society, it could easily be attributed to specific local conditions; but this looks like a more generalised, global scenario: in the U.S., China, Russia, India, Brazil, Hungary, Turkey and elsewhere.
- Clearly then, we are witnessing the transformation of the regime of democracy, a systemic transformation from within, from one that had brought us the promise of liberté, egalité, fraternité political, social and economic, to its very opposite: the highest concentration of economic, political and therefore social powers ever in history.

SUPREME COURT'S JUDGEMENT ON AGR DUES

Why in news?

- The Supreme Court allowed telecom companies 10 years' time to pay their adjusted gross revenue (AGR) dues to the government.
- The government had proposed in court a 20-year "formula" for telcos to make staggered payments of the dues, however the Supreme Court considered that the period of 20 years fixed for payment was excessive.

Series of directions

- In a series of directions to the telcos, the court said they shall raise no dispute nor will they be any reassessment of the dues.
- Telecom majors like Vodafone had said they were in no position to give fresh bank guarantees for repayment of the AGR dues.
- In the event of any default in making payment of annual instalments, interest would become payable as per the agreement along with penalty and interest on penalty automatically without reference to court.

- Besides, the court has referred to the National Company Law Tribunal (NCLT) a series of questions on whether "deferred/default payment instalments of spectrum acquisition cost can be termed to be operational dues besides AGR dues".
- The court wants the tribunal to decide whether a scarce natural resource like spectrum can be used without pay of requisite dues.

The AGR Issue – Timeline

- The telecom sector was liberalised under the National Telecom Policy, 1994 after which licenses were issued to companies in return for a fixed license fee.
- To provide relief from the steep fixed license fee, the government in 1999 gave an option to the licensees to migrate to the revenue sharing fee model.
- Under this, mobile telephone operators were required to share a percentage of their AGR with the government as annual license fee (LF) and spectrum usage charges (SUC).
- License agreements between the Department of Telecommunications (DoT) and the telecom companies define the gross revenues of the telecom companies.

The Contention on Definition of AGR – 14 years on

- In 2005, Cellular Operators Association of India (COAI) challenged the government's definition for AGR calculation.
- However, DoT argued that AGR includes all revenues from both telecom and non-telecom services.
- The companies claimed that AGR should comprise just the revenue accrued from core services and not dividend, interest income or profit on the sale of any investment or fixed assets.
- In 2015, the TDSAT (Telecom Disputes Settlement and Appellate Tribunal) stayed the case in favour of telecom companies and held that AGR includes all receipts except capital receipts and revenue from non-core sources such as rent, profit on the sale of fixed assets, dividend, interest and miscellaneous income.
- However, setting aside the TDSAT's order, in 2019, the Supreme Court of India upheld the Department of Telecom (DoT)'s interpretation of Adjusted Gross revenue (AGR), due to which telecom service providers had to pay an estimated Rs. 1.4 lakh crore to the government.

Impact of the Current Definition

Impact on Telecom Sector:

- 10 of the 15 telecos that existed in 2005 have either closed operations or are undergoing insolvency proceedings in the last 14 years.
- AGR due will seriously hurt financial stability of telecom companies that are doing business in the Indian market.
- Telecom equipment suppliers may also go down as their dues will not be paid.

Impact on Banking Sector and Economy:

- Banks will face the consequences of the dues as companies will be going bankrupt (non-performing assets will rise).
- The collapse of the telecom sector may increase unemployment, and reduce investment, adding to our economic and social problems.

Effect on consumers:

- The failure of a few large players could lead to one or two players emerging near-monopolies.
- This leaves the Indian consumer vulnerable to high pricing, sub-standard products and lack of options.

Government will be the only winner:

If companies are ready to pay AGR dues, it will lead to a higher contribution to the public exchequer – Meaning the Government revenue will get a huge boost and help bridge gap in the fiscal deficit and help the government finance the recovery of the economy in the current pandemic affected situation. (Note: This scenario is only possible if the companies are ready to pay the dues)

Way Forward

- If the AGR Dues can be broken in instalments to be paid over the period, then the telecos would be in a better position to pay the dues back, rather than filing for bankruptcy.
- Since the Supreme Court recognises that there was no willful defiance of the law that is an essential ingredient to attract the levy of penalty, the government can waive off the penalty or at least interest on penalty to reduce the burden on telecos.
- Alternative dispute resolution (ADR) mechanisms (a variety of processes that help parties resolve disputes without a trial) van be explored by the government.
- Facilitating shared infrastructure by the government with policies and legislation will be able to help out the telecos.

NEW GUIDELINES FOR STANDING COMMITTEES IN THE MAKING

Why in news?

Parliament is preparing new guidelines for its standing committees that may include a minimum 15 days' notice and confirmation by one-third of the members before holding a panel meeting; nomination of members based on their qualifications, interests and occupations; and at least 50% attendance while collecting evidence and adopting reports.

Details

- The Rajya Sabha secretariat has already prepared draft guidelines after chairman reviewed the functioning of the eight standing committees under its purview.
- The Lok Sabha secretariat, however, is yet to draft their version.
- Once that exercise is over, common guidelines will be inked by Rajya Sabha chairman and Lok Sabha Speaker.

The Need

- To be sure, a whole set of dos and don'ts is already available in the rule books of the two Houses.
- But officials involved in the discussions pointed to an urgent need to bring functional guidelines to address vital issues related to the composition, performance, and work of the panels, given how the issues under their consideration are getting increasingly complex and specialised.

Highlights

- The draft guidelines add that "quorum of 1/3 of the total membership of the Committees shall be ensured in all the meetings of the Committees" and "efforts shall be made to ensure attendance of 50%

of the total strength of the Committees while taking evidence and adoption of reports by the Committees".

- While every MP is entitled to be a member of a Standing Committee, the draft guidelines say that "level of comfort of members with the issues to be discussed by the Committees and the domain knowledge of subject matter of the Committees is an enabling factor regarding attendance".
- "All efforts shall be made to nominate members of parliament on various DRSCs based on their academic qualifications, interests and occupations being pursued," the draft guidelines add, and "all political parties may be advised to consider the above" while recommending names of their MPs on various committees.

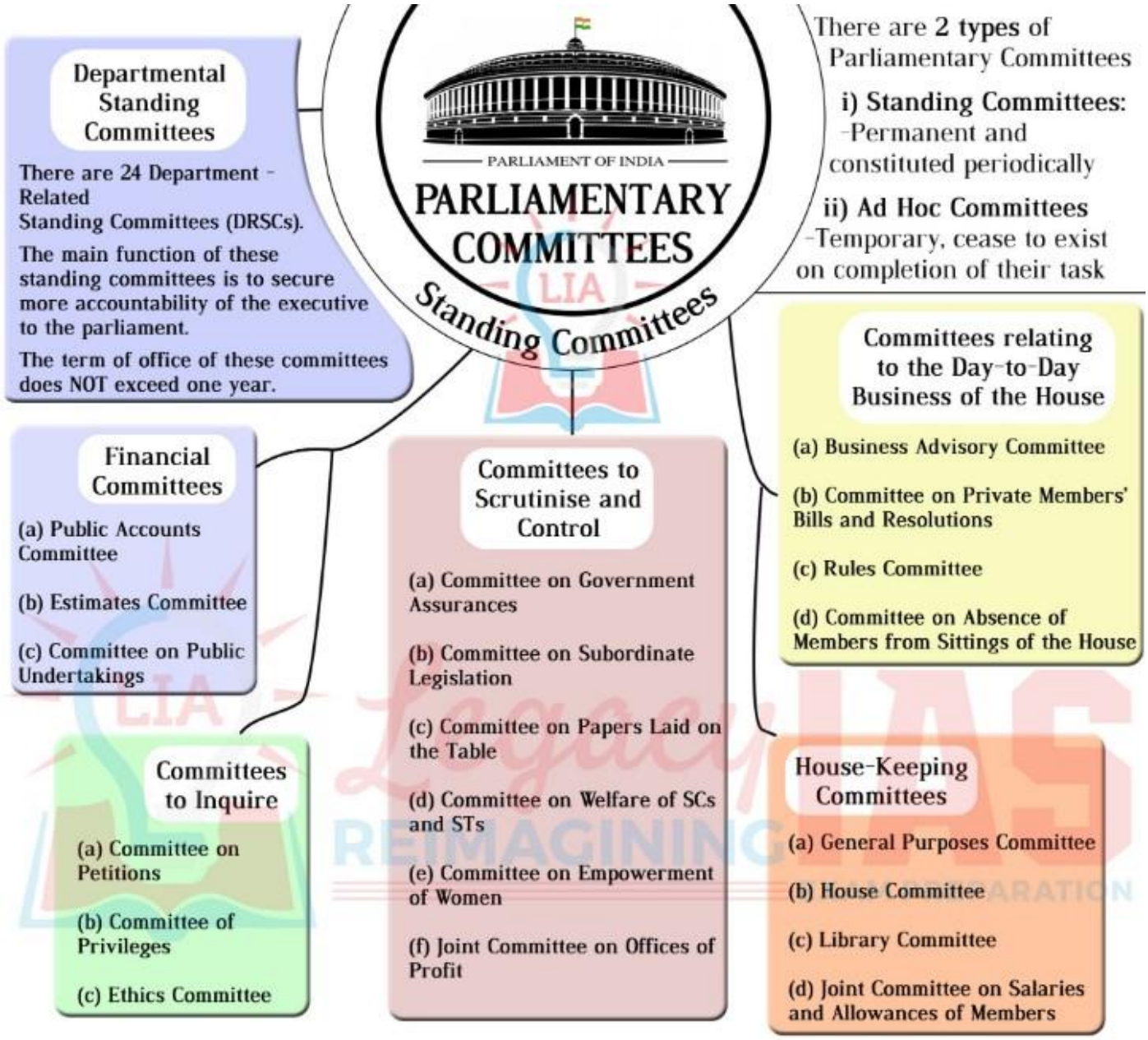
Standing committees of the Indian Parliament

- In the Indian Parliament, a Standing committee is a committee consisting of Members of Parliament or MPs.
- It is a permanent and regular committee which is constituted from time to time according to the provisions of an Act of Parliament or Rules of Procedure and Conduct of Business.
- The work done by the Indian Parliament is not only voluminous but also of a complex nature, hence a great deal of its work is carried out in these Parliamentary committees.
- Both Houses of Parliament, Rajya Sabha and Lok Sabha, have similar committee structures with a few exceptions.
- Their appointment, terms of office, functions and procedures of conducting business are broadly similar.
- These standing committees are elected or appointed every year, or periodically by the Chairman of the Rajya Sabha or the Speaker of the Lok Sabha, or as a result of consultation between them.

2 Types of Parliamentary Committees

There are two types of Parliamentary committee, the Standing committee and the Ad hoc committee.

1. The Standing committees are constituted every year or frequently and they work on continuous basis.
2. Ad hoc committees are temporary and created for specific task. Once that task is completed, the ad hoc committees cease to exist.



PARLIAMENT STIFLED, BUSINESS, AND A WORD OF ADVICE

Introduction

- The upcoming monsoon session of Parliament is emblematic of the issues faced by legislatures during the novel coronavirus pandemic.
- Parliament will maintain physical distancing, has truncated the Zero Hour (in which members raise issues pertinent to their constituents and of wider public interest), and cancelled Question Hour (in which Ministers have to answer questions raised by members).

QUESTION HOUR DROPPED IN LOK SABHA

Focus: GS-II International Relations

Why in news?

- The Lok Sabha Secretariat on officially released the schedule for the monsoon Parliament session with Question Hour being dropped.
- In view of the COVID-19 pandemic, private members business, usually fixed for every Friday, has also been skipped.

- Unstarred questions, or written questions that ministers need to reply to, will be allowed during the monsoon session of Parliament.
- The decision has been taken at a time when Opposition parties have strongly protested against the move to not schedule question hour, calling the decision an attempt by the government to avoid being questioned, and describing it as an attempt to curb their rights.

Details

- The session will have staggered timings to accommodate members of one House in both chambers and follow strict physical distancing norms.
- The unstarred questions will have to be submitted to the secretariat and answers will be provided on the day the question is listed (it will also be uploaded on the website).
- However, oral or starred questions will not be allowed – in the interests of time, and to ensure that the number of people in Parliament is kept low (when a question from a ministry is listed to be asked as a starred one, key officials of the ministry are expected to be in Parliament).
- The session may also not allow private member bills—through which MPs seek policy or legislative changes—and the Zero Hour during which MPs raise current issues, might be limited to just half an hour.
- These changes have been necessitated by the fact that the session is happening against the backdrop of the Covid-19 pandemic, which continues to surge across India.

Question Hour

- The question hour is slated for 11am every day (for an hour) in both the houses.
- This is a very important part of the proceedings where MPs ask questions on important subjects and the respective ministers respond with data, information & other details.
- These are also a very important source of information since a lot of latest up to date information/data is provided in the form of answers which are not usually available elsewhere.

Zero Hour in Parliament

- Firstly, there is no mention of zero hour in rules of Parliamentary Procedure. This term was coined by press in 1960s.
- A zero Hour is the hour after the Question Hour in the two houses of Parliament.
- During this hour, the members raise matters of importance, particularly those which they feel, cannot be delayed.
- Since this is unscheduled and without permission or prior notice, it generally results in avoidable loss of precious time of the house.
- It also obstructs the legislative, financial and regular proceedings and business of the House.

Half-an-Hour Discussion

- A Half-an-Hour Discussion can be raised on a matter of sufficient public importance which has been the subject of a recent question in Lok Sabha or Rajya Sabha, irrespective of the fact whether the question was orally answered or the answer was laid on the table of the House.
- Generally, not more than half an hour is allowed for such a discussion.
- The Chairman/Speaker decides whether the matter is of sufficient public importance to be put down for discussion.

Type of Questions

Members have a right to ask questions to elicit information on matters of public importance within the special cognizance of the Ministers concerned. The questions are of four types:

1. **Starred Questions**– A Starred Question is one to which a member desires an oral answer from the Minister in the House and is required to be distinguished by him/her with an asterisk. Answer to such a question may be followed by supplementary questions by members.
2. **Unstarred Questions**– An Unstarred Question is one to which written answer is desired by the member and is deemed to be laid on the Table of the House by Minister. Thus, it is not called for oral answer in the House and no supplementary question can be asked thereon.
3. **Short Notice Questions**– A member may give a notice of question on a matter of public importance and of urgent character for oral answer at a notice less than 10 days prescribed as the minimum period of notice for asking a question in ordinary course. Such a question is known as 'Short Notice Question'.
4. **Questions to Private Members**– A Question may also be addressed to a Private Member (Under Rule 40 of the Rules of Procedure and Conduct of Business in Lok Sabha), provided that the subject matter

of the question relates to some Bill, Resolution or other matter connected with the business of the House for which that Member is responsible. The procedure in regard to such questions is same as that followed in the case of questions addressed to a Minister with such variations as the Speaker may consider necessary.

Supplementary Question

- Starred Questions are those for which an oral answer is expected. The member is allowed to ask a supplementary question, with the permission of the Speaker, after the reply is obtained from the Minister concerned.
- Non-starred questions are those for which a written reply is expected. After the reply has been provided, NO supplementary question can be asked.
- A notice period is to be given to the minister to reply to a question. However, if a Member seeks to ask a question urgently and cannot wait for the duration of the notice period, then the member can do so provided it is accepted by the Speaker. Such questions are called supplementary questions.

A slew of notifications

- Parliament will be meeting after 175 days, the longest gap without intervening general elections and just short of the six-month constitutional limit.
- Parliamentary committees did not meet for about four months, and after that have had only in-person meetings, which have led to low attendance, given travel risks and restrictions.
- The absence of a functioning Parliament or Committees implies that there has been no check or guidance on government action.

Court interventions

- The lack of parliamentary oversight has been compounded by judicial intervention in many policy issues.
- For example, the government's actions related to the lockdown and the hardships caused to migrants should have been questioned by Parliament.
- Discussions in parliamentary forums would have helped the government get feedback on the ground situation across the country and fine-tune its response.
- However, this was taken to the Supreme Court.

Short session, much business

- The fact that the two Houses are working in shifts to use the same physical space limits the scope of extended sittings on any day.
- In the period since the last session, the government has issued 11 ordinances.
- Five of these relate to the COVID-19 crisis and the lockdown: extending tax filing dates, moratorium on new insolvency cases, protection for health workers, and temporary cuts in salaries and allowances of Members of Parliament and Ministers.
- Of the other six, two relate to supersession of the Boards of the councils that regulate homoeopathy and Indian systems of medicine, one allows the Reserve Bank of India to regulate cooperative banks (a similar Bill is pending in Parliament), and three relate to agricultural markets (allowing contract farming and trading outside mandis).

Conclusion

- The absence of Question Hour and a shorter Zero Hour restricts the ability of Members of Parliament to hold the government accountable and represent public interest.
- That said, Members of Parliament must use other available interventions to ensure that new laws and expenditure proposals are passed only after detailed discussion.
- Parliamentarians have a duty towards Indian citizens to fulfil their role in scrutinising the work of the government and guiding policy.
- Despite the curtailed session and the constraints due to the coronavirus, they should make the best of the limited time to do so.

ASSAM RIFLES: TUSSLE BETWEEN MOD AND MHA

Why in news?

- The Delhi High Court has granted 12 weeks to the Union government to decide on whether to scrap or retain the dual control structure for Assam Rifles, which comes under both the Ministry of Home Affairs (MHA) and the Ministry of Defence (MoD).
- Observing that the matter has been pending for almost three years, the court said it appears that an in-principle decision has been taken to keep the central armed police force under the exclusive control of MHA, but the final decision has not yet been taken.

What is Assam Rifles?

- Assam Rifles is one of the six central armed police forces (CAPFs) under the administrative control of Ministry of Home Affairs (MHA).
- The other forces being the Central Reserve Police Force (CRPF), the Border Security Force (BSF), the Indo-Tibetan Border Police (ITBP), the Central Industrial Security Force (CISF) and the Sashastra Seema Bal (SSB).
- It is tasked with the maintenance of law and order in the North East along with the Indian Army and also guards the Indo-Myanmar border in the region.
- Assam Rifles is the oldest paramilitary force raised way back in 1835 in British India with just 750 men.
- Since then it has gone on to fight in two World Wars, the Sino-Indian War of 1962 and used as an anti-insurgency force against militant groups in the North East.
- It remains the most awarded paramilitary force in both pre- and post-independent India.

How is it unique?

- It is the only paramilitary force with a dual control structure. While the administrative control of the force is with the MHA, its operational control is with the Indian Army, which is under the MoD.
- This means that salaries and infrastructure for the force is provided by the MHA, but the deployment, posting, transfer and deputation of the personnel is decided by the Army.
- The force is the only central paramilitary force (CPMF) in real sense as its operational duties and regimentation are on the lines of the Indian Army.
- However, its recruitment, perks, promotion of its personnel and retirement policies are governed according to the rules framed by the MHA for CAPFs.
- This has created two sets of demands from both within the Assam rifles and by MoD and MHA for singular control over the force by one ministry.

Why do both MHA and MoD want full control?

- MHA has argued that all the border guarding forces are under the operational control of the ministry and so Assam Rifles coming under MHA will give border guarding a comprehensive and integrated approach.
- MHA sources also say that Assam Rifles continues to function on the pattern set during the 1960s and the ministry would want to make guarding of the Indo-Myanmar border on the lines of other CAPFs.
- The Army, for its part, has been arguing that there is no need to fix what isn't broken.
- Sources say the Army is of the opinion that the Assam Rifles has worked well in coordination with the Army and frees up the armed forces from many of its responsibilities to focus on its core strengths.
- It has also argued that Assam Rifles was always a military force and not a police force and has been built like that.
- It has argued that giving the control of the force to MHA or merging it with any other CAPF will confuse the force and jeopardise national security.

VIRTUAL HEARINGS UNDER EPF & MP ACT, 1952

Focus: GS-II Governance, GS-III Indian Economy

Why in news?

- Minister of State for Labour & Employment (I/C) launched virtual hearing facility in quasi-judicial cases under EPF & MP Act, 1952 through Video conferencing by use of secure IT applications.
- The aim of integration of virtual hearing utilities with EPFO's e-Court process on Compliance e-Proceedings Portal is to eliminate physical presence of parties in hearings before Adjudicating Officer leading to ease and convenience for employers & employees to appear in hearings from remote location of their choice.
- The system entails savings on time, travel and expenditure for parties, ensures compliance to social distancing norms during pandemic and fast tracks assessment of worker's EPF dues to generate better confidence in the quasi-judicial mechanism.

What is Employee Provident Fund (EPF)?

- If you are a salaried employee in India, you would know that every month a certain amount of money is deducted from your salary as PF (provident fund).
- Employee Provident Fund (EPF) is a retirement savings scheme that the government of India has mandated for all salaried employees.
- EPF is the main scheme under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.
- The funds deducted from your salary as PF goes to your PF account, which is maintained by the Employee Provident Fund Organization (EPFO).
- All organizations in India that have more than 20 employees, as per law, is mandated to register with EPFO.
- In simple words, it is a savings platform provided by the government to help the employees build a corpus for post-retirement life.

Employees Provident Fund Organisation (EPFO)

- EPFO is a Statutory Body, formed by the Employees' Provident Fund and Miscellaneous Provisions Act, 1952.
- EPFO is under Union Ministry of Labour & Employment.
- The EPFO has the dual role of being the enforcement agency to oversee the implementation of the EPF & MP Act and as a service provider for the covered beneficiaries throughout the country.
- EPFO assists the Central Board in administering a compulsory contributory Provident Fund Scheme, a Pension Scheme and an Insurance Scheme for the workforce engaged in the organized sector in India.
- It is also the nodal agency for implementing Bilateral Social Security Agreements with other countries on a reciprocal basis.
- The schemes cover Indian workers as well as International workers (for countries with which bilateral agreements have been signed.
- The EPFO's apex decision making body is the Central Boad of Trustees (CBT).

VILLAGE POVERTY REDUCTION PLAN (VPRP)

Focus: GS-II Governance, Social Justice

Introduction

- The Article 243G of the Constitution intended to empower the Gram Panchayats (GPs) by enabling the State Governments to devolve powers and authority in respect of all 29 Subjects listed in the Eleventh Schedule for local planning and implementation of schemes for economic development and social justice.
- The local bodies (GPs) play a significant role in the effective implementation of flagship schemes on subjects of national importance, for transformation of rural India.

Gram Panchayat Development Plan (GPDP)

- Gram Panchayat Development Plan (GPDP) brings together both the citizens and their elected representatives in the decentralized planning processes.
- GPDP is expected to reflect the development issues, perceived needs and priorities of the community, including that of the marginalized sections.
- Apart from the demand related to basic infrastructure and services, resource development and convergence of departmental schemes, GPDP has potential to address the social issues.

Village Poverty Reduction Plan (VPRP)

- The Village Poverty Reduction Plan (VPRP) is a community demand plan prepared by the SHG (Self-Help Groups) network which can be further integrated into the Gram Panchayat Development Plan (GPDP).
- This serves as the mission and plan document around which the Gram Panchayat and the SHG network work together to address the basic needs of the people.
- VPRP includes demands of SHG households and demands of other vulnerable sections of the community.
- This guarantees the representation of demands from all sections of the community.
- VPRP also Creates a fair, transparent and participatory plan.

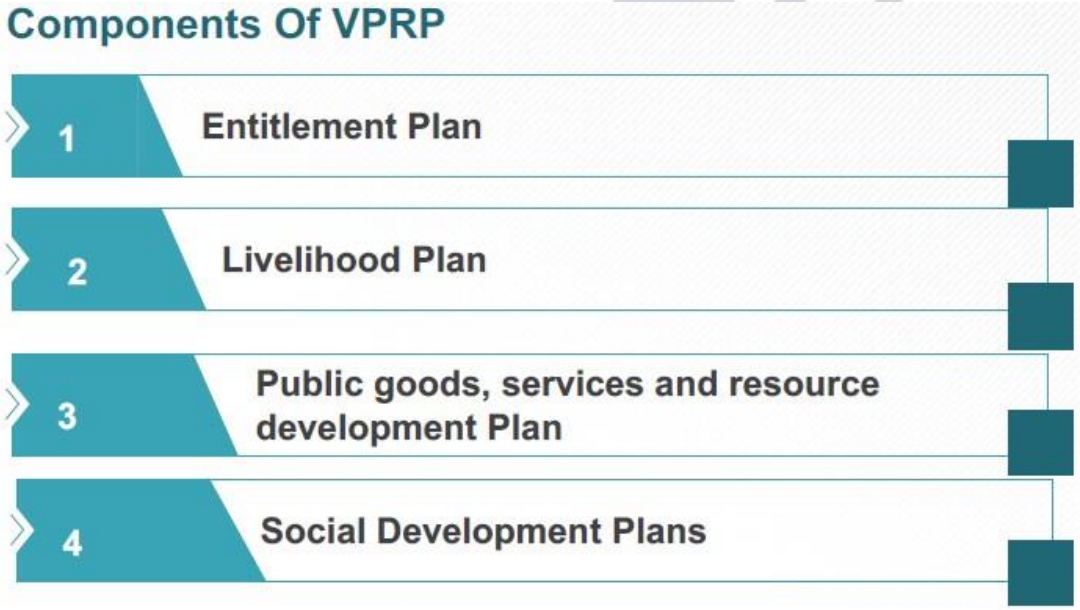
- VPRP is a bottom up plan preparation for addressing the demands of the community.

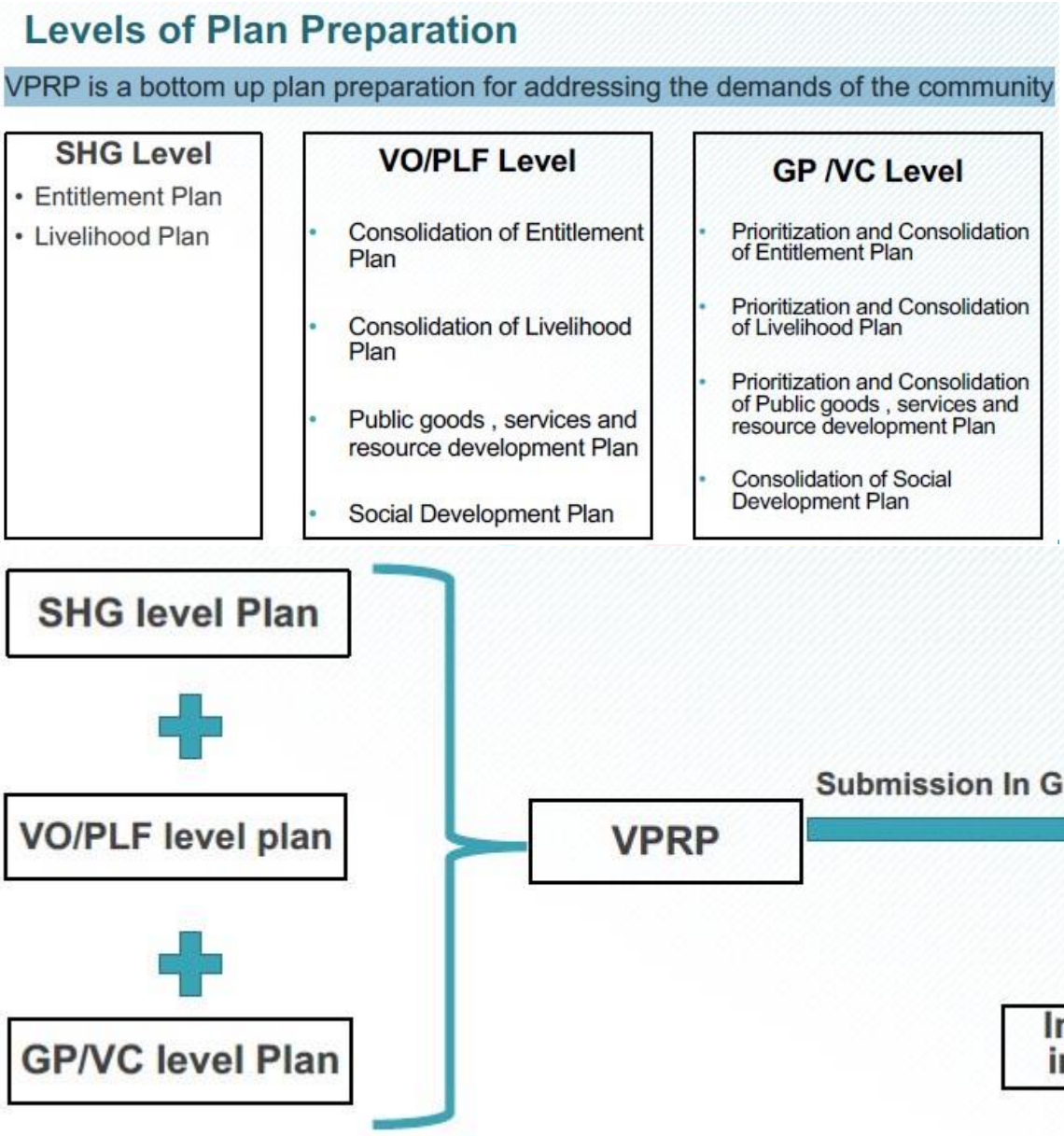
Objectives of VPRP are three-fold

1. Prepare a comprehensive and an inclusive demand plan of the community for local development
2. Facilitate an interface between the SHG federation and Panchayati Raj institutions for development of demand plan
3. Strengthen the community-based organisations and their leadership for active participation in poverty reduction activities

Components of VPRP

1. **Social inclusion –** plan for inclusion of vulnerable people/household into SHGs under NRLM
2. **Entitlement –** demand for various schemes such as MGNREGS, SBM, NSAP, PMAY, Ujjwala, Ration card etc.
3. **Livelihoods –** specific demand for enhancing livelihood through developing agriculture, animal husbandry, production and service enterprises and skilled training for placement etc.
4. **Public Goods and Services –** demand for necessary basic infrastructure, for renovation of the existing infrastructure and for better service delivery
5. **Resource Development –** demand for protection and development of natural resources like land, water, forest and other locally available resources
6. **Social Development –** plans prepared for addressing specific social development issues of a village under the low cost no cost component of GPDP





SC: ADHERE TO MINISTRY CIRCULAR ON CHAR DHAM

Focus: GS-II Governance

Why in news?

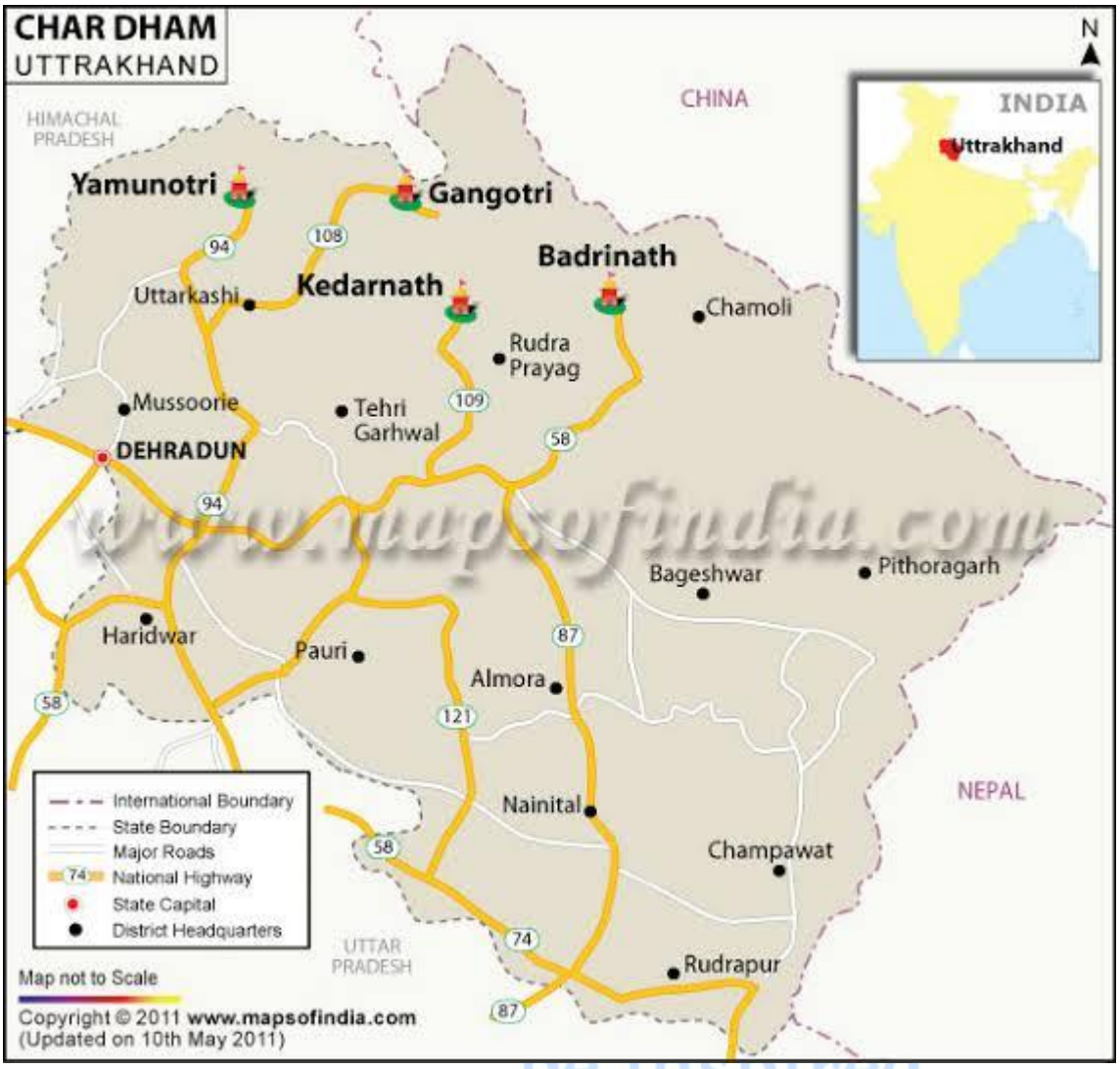
- The Supreme Court ordered the Centre to adhere to a Union Road Ministry circular which had advised against building full-fledged roads cutting across the fragile Himalayan slopes, while implementing the Char Dham project for better connectivity to pilgrimage centres in Uttarakhand.
- The project had proposed the widening of single lane roads into double lanes by up to 10 metres, developing the highways and thereby improving access to the Char Dham (four shrines).

Why was the direction given?

- Environmentalist groups had moved the apex court after they failed in the National Green Tribunal contending that the project was proceeding without environmental clearances and the debris was being disposed haphazardly.

- The petitioners had informed the apex court about the extensive excavation of the eco-sensitive landscape for the project.
- They had contended that the project, which extends across nearly 900 km of hilly roads, was an environmental threat.
- Earlier, the NGT had found no need for an environmental clearance.

Char Dham Project



- Char Dham Expressway National Highway is a proposed two-lane (in each direction) express National Highway in the state of Uttarakhand.
- Under the prestigious 'Char Dham' road project, BRO is constructing 250 km of national highway leading to the holy Hindu shrines of Gangotri and Badrinath.

The proposed highway will complement the under-development Char Dham Railway by connecting the four holy places in Uttarakhand which are:

1. Badrinath
2. Kedarnath
3. Gangotri
4. Yamunotri

5. The roads will be widened from 12m to 24m and the project will involve construction of tunnels, bypasses, bridges, subways and viaducts.
6. All of these four sites are devoted to a specific deity. Gangotri is dedicated to the Goddess Ganga, Yamunotri is dedicated to the Goddess Yamuna, Kedarnath is dedicated to Lord Shiva and is one of the 12 jyotirlingas and Badrinath, is dedicated to Lord Vishnu.

SAROD-PORTS LAUNCHED

Focus: Prelims, GS-II Governance

Why in news?

Union Minister of State for Shipping (I/C) launched 'SAROD-Ports' (Society for Affordable Redressal of Disputes – Ports).

SAROD-Ports

SAROD-Ports is established under Societies Registration Act, 1860 with the following objectives:

1. Affordable and timely resolution of disputes in fair manner
2. Enrichment of Dispute Resolution Mechanism with the panel of technical experts as arbitrators.

SAROD-Ports consists members from Indian Ports Association (IPA) and Indian Private Ports and Terminals Association (IPTTA).

- SAROD-Ports will advise and assist in settlement of disputes through arbitrations in the maritime sector, including ports and shipping sector in Major Port Trusts, Non-major Ports, including private ports, jetties, terminals and harbours.
- It will also cover disputes between granting authority and Licensee/Concessionaire /Contractor and also disputes between Licensee/Concessionaire and their contractors arising out of and during the course of execution of various contracts.
- 'SAROD-Ports' is similar to provision available in Highway Sector in the form of SAROD-Roads constituted by NHAI.
- SAROD-Ports will inspire confidence in the private players and will ensure right kind of environment for our partners.
- It will promote ease of doing business in the maritime sector because of the fast, timely, cost effective and robust dispute resolution mechanism.

DIGITISING INDIA'S ELECTORAL INFRASTRUCTURE

Introduction

- The Election Commission of India has been working with idea of further digitising the electoral infrastructure of the country and in furtherance of this the Election Commission had recently held an online conference in collaboration with the Tamil Nadu e-Governance Agency ("TNeGA") and IIT Madras, through which they explored the possibility of using blockchain technology for the purpose of enabling remote elections.
- While this exploration is still only in the nascent stages, there are several concerns that must be considered at the offset with utmost caution.

Rise in new applications

- Blockchain ledgers have traditionally been used as supporting structures for cryptocurrencies, such as Bitcoin and Ethereum; however, their use in non-cryptocurrency applications too has seen a steady rise.
- Some of the blockchain solutions allowing individuals and companies to draft legally-binding "smart contracts," enabling detailed monitoring of supply chain networks, and several projects focused on enabling remote voting and elections.

Benefits of 'Remote voting'

- 'Remote voting' is argued to benefit internal migrants and seasonal workers, who account for roughly 51 million of the populace (Census 2011), and who have, as a matter of record, faced considerable difficulties in exercising their democratic right of voting.
- It might also be useful for some remotely-stationed members of the Indian armed forces,

However, it is to be noted that for the most part, vote casting has not been an issue for those serving in even the remotest of places including the Siachen Glacier, which, given its altitude, is considered to be the 'highest battleground' on the planet.

Key issues, security concerns

- Electors would still have to physically reach a designated venue in order to cast their vote, adding that systems would use "white-listed IP devices on dedicated internet lines", and that the system would make use of the biometric attributes of electors.
- Digitisation and interconnectivity introduce additional points of failure external to the processes which exist in the present day.
- Blockchain solutions rely heavily on the proper implementation of cryptographic protocols, and if any shortcomings exist in an implementation, it might stand to potentially unmask the identity and voting preferences of electors, or worse yet, allow an individual to cast a vote as someone else.
- The requirement of physical presence and biometric authentication may not necessarily make a remote voting system invulnerable to attacks either.
- Physical implants or software backdoors placed on an individual system could allow attackers to collect and deduce voting choices of individuals.

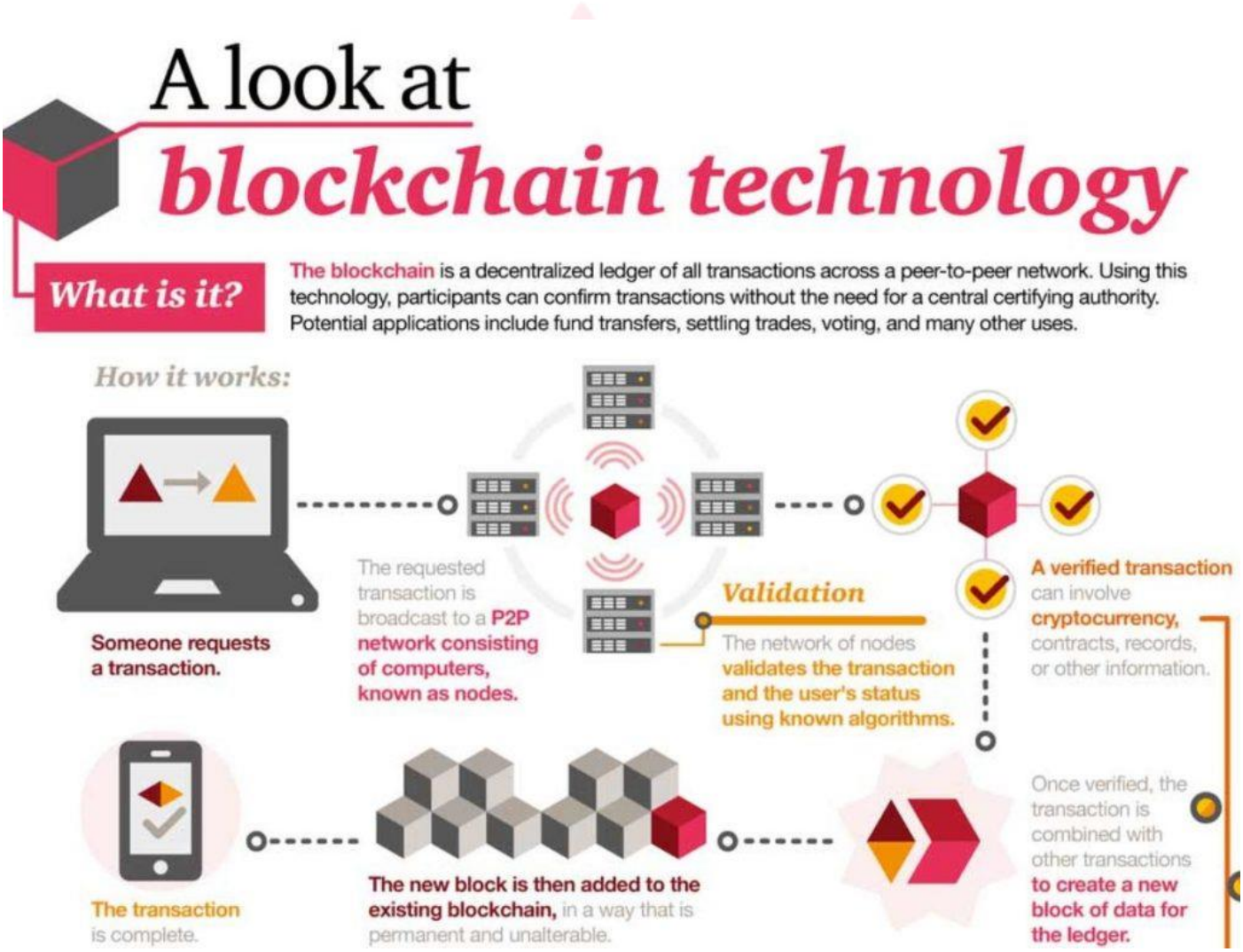
The system envisioned by the Election Commission is perhaps only slightly more acceptable than a fully remote, app-based voting system.

Other solutions

- If the only problem that is to be solved is the one of ballot portability, then perhaps technological solutions which involve setting up entirely new, untested voting infrastructure may not be the answer.
- Political engagement could perhaps be improved by introducing and improving upon other methods, such as postal ballots or proxy voting.
- Another proposed solution to this issue includes the creation of a 'One Nation, One Voter ID' system, though it is unclear whether such a radical (and costly) exercise would be required at all for the mere purpose of allowing individuals to vote out of their home State.
- Even if the Election Commission is able to design a system which is proven to be satisfactorily secure in the face of attacks, where tampering could be detected, and where the integrity of the ballot is verifiable by electors, use of such a system could perhaps only be justified for lower level elections, and not for something as significant and politically binding as the general election.

Blockchain Technology

- A blockchain is a growing list of records, that are linked using cryptography.
- To be more precise, a blockchain is a decentralized, distributed, and oftentimes public, digital ledger consisting of records called blocks that is used to record transactions across many computers so that any involved block cannot be altered retroactively, without the alteration of all subsequent blocks.
- Each block contains a cryptographic hash of the previous block, a timestamp, and transaction data.
- By design, a blockchain is resistant to modification of the data.
- The use of a blockchain removes the characteristic of infinite reproducibility from a digital asset.
- It confirms that each unit of value was transferred only once, solving the long-standing problem of double spending.



4,442 CASES PENDING AGAINST INDIA'S LEGISLATORS

Why in news?

- A report submitted in the Supreme Court has said there are a total 4,442 cases pending against legislators across the country.

- The apex court had sought the amicus report on the basis of a petition highlighting the criminalisation of politics.
- Recently the Supreme Court had taken a timely decision by agreeing to hear a plea from the Election Commission of India (ECI) to direct political parties to not field candidates with criminal antecedents.

Details

- Of the massive 4,442 cases pending against legislators – cases against sitting Members of Parliament and members of State legislatures was more than 2,500.
- The cases were pending in various special courts exclusively set up to try criminal cases registered against politicians, it said.
- The cases against the legislators include that of corruption, money laundering, damage to public property, defamation and cheating.
- A large number of cases were for violation of Section 188 IPC for wilful disobedience and obstruction of orders promulgated by public servants.
- There are more than 400 cases in respect of offences, which are punishable with imprisonment for life, out of which in 174 cases sitting MPs/ MLAs are accused.
- The trial of more than 350 cases had been stayed by High Courts and the apex court.
- A large number of cases were pending at the appearance stage and even non-bailable warrants (NBWs) issued by courts have not been executed.
- As per the report, Uttar Pradesh tops the chart.

Way Forward

1. Judicial pronouncements on making it difficult for criminal candidates to contest are necessary, only enhanced awareness and increased democratic participation could create the right conditions for the decriminalization of politics.
2. There needs to be an increased and sincere monitoring the affidavits of candidates.
3. Working with the Election Commission in monitoring compliance with the Supreme Court judgment to see if details of tainted candidates are promptly put up on their websites, and on their social media handles, along with proper reasons for giving them ticket.
4. Voters also need to be vigilant about misuse of money, gifts and other inducements during elections.
5. Voters also need to be wary of fake news, trolling, and fanciful claims.
6. Discouraging political parties from fielding criminals as candidates
7. Adequate security measures during elections
8. Role of money in election should be lowered

SC STAYS IMPLEMENTATION OF MARTHA RESERVATION

Why in news?

- A three-judge Bench of the Supreme Court referred a group of petitions challenging the Maratha reservation law to a Constitution Bench and found merit in the arguments made by senior lawyers that a larger Bench should examine the issue of reservation for the Maratha community.

- The three-judge Bench had reserved orders on pleas to refer the case to a larger Bench.

The Court's Views

- The court said the Maratha quota, meanwhile, will not apply for admissions and appointments made in the State for 2020-21.
- However, the postgraduate admissions which have already been made will be left unaltered.

What are the petitions about?

- The petitions challenge the reservation granted to the Maratha community in education and jobs in Maharashtra.
- The appeals challenging the Maratha quota law contend that the statute provides 12 to 13% quota for the community in Maharashtra.
- This has breached the 50% cap declared by a nine-judge Bench of the apex court in 1992.

Who are the Marathas?

- The Marathas are a group of castes comprising peasants, landowners among others.
- Not all Marathi-speaking persons belong to Maratha community.
- A politically dominant community in Maharashtra, it comprises nearly one-third of the population of the state.
- Historically, Marathas have been identified as a 'warrior' caste with large land-holdings.

What did the Bombay HC rule?

- In 2019, a division bench commenced hearing in petitions filed by advocate Jishri Laxmanrao Patil and others.
- The Bombay HC held that the limit of reservation should not exceed 50%.
- It ruled that the 16% quota granted by the state was not 'justifiable'.
- It reduced the quota to 12% in education and 13% in government jobs.
- For this, the court relied on findings of the 11-member Maharashtra State Backward Class Commission (MSBCC).
- It also said that in exceptional circumstances and extraordinary situations, this 50% limit can be crossed.
- This limit should be subject to availability of contemporaneous data reflecting backwardness, inadequacy of representation and without affecting the efficiency in administration.
- The Court had said that while the backwardness of the community was not comparable with SCs and STs.
- It was comparable with several other backward classes (OBCs), which find place in the list of OBCs pursuant to the Mandal Commission.

What is MSBCC?

- The MSBCC surveyed about 45,000 families from two villages from each of 355 talukas with more than 50% Maratha population.
- It reported that the Maratha community is socially, economically and educationally backward.

- The HC observed that the Commission had conclusively established the backwardness of the community.
- It had also established inadequacy of representation of the Maratha community in public employment in the state.

What is the existing reservation in Maharashtra post HC verdict?

- In Mandal Commission case 1993, the SC had ruled that total reservation for backward classes cannot go beyond the 50%-mark.
- Maharashtra is one of the few states that are an exception to this.
- Following the 2001 State Reservation Act, the total reservation in the state was 52%.
- Along with the 12-13% Maratha quota, the total reservation is 64-65%.
- The 10 % Economically Weaker Sections (EWS) quota announced by the Centre is also effective in the state.

DATA LAW: RBI SEEKS EXEMPTION

Why in news?

The Reserve Bank of India has sought exemption from the country's proposed Personal Data Protection Law for its regulatory, policy, and supervisory functions, and also does not want financial data of individuals to be classified as sensitive personal data, according to people familiar with the matter who spoke on condition of anonymity because the law is yet to be finalised.

Details

- RBI said that eating financial data as sensitive personal data may have a "dampening effect" on India's efforts at financial inclusion.
- RBI routinely deals with lots of data on banks and financial institutions in its role as a regulator and supervisor and has data on the clients of banks; and much of this is needed to ensure compliance, prevent frauds, and ensure the smooth running of the system.

The Cost involved

- Objecting to classification of financial data as sensitive personal data, RBI's note maintained that this would lead to higher compliance and explicit consent, which would translate to increase in costs for providing services to customers.
- Financial inclusion efforts rely on lower service charges for offering basic banking services.
- The increase in costs would compel banks to increase the charges associated with offering banking services.

How it is dealt with in other coutries?

- The UK and Europe's data protection laws exempt central banks from their purview, and also do not classify financial data as sensitive personal data; only biometric and health data, and such things as sexual orientation, religious beliefs, union membership and political opinion are classified as sensitive personal data in these countries.
- The latter require special and extra security while processing.

Personal Data Protection Bill and the DPA

- The Personal Data Protection Bill, 2019 entrusts the DPA with the mammoth task of protecting the right to privacy of 1.3 billion Indians by regulating approximately 600 million entities, including the proliferating digital ecosystem of both the government of India and the states.
- As opposed to a sectoral regulator like SEBI, IRDA, TRAI etc, it is a sector agnostic body and has wide powers cutting across different sectors and economic spheres with powers to penalise not only both central and state governments but also other fourth branch watchdogs such as Comptroller and Auditor General of India and the Election Commission and even more significantly, the legislature and judiciary itself.
- For impartial and effective discharge of its crucial role, there is a need for the DPA to have sufficient capability to discharge its functions.
- The independence of the DPA is the foremost criterion for meeting such a requirement and a necessary prerequisite for a free and fair cross border transfer of data.

NOT SPEAKER'S JOB TO APPOINT A DEPUTY SPEAKER

Why in news?

- Lok Sabha Speaker said that if there is a provision for the post of Deputy Speaker in the Lok Sabha, then it was only obvious that there should be one, but it was not the Speaker's job to appoint one, and that the Deputy Speaker was chosen by the house.
- The position of the Deputy Speaker has been vacant for the over 15 months as of September 2020.
- The Rajya Sabha, meanwhile, has already commenced the procedure to elect the Deputy Chairman for the upper council.

Deputy Speaker of the Lok Sabha

- The Deputy Speaker of the Lok Sabha is the vice-presiding officer of the Lok Sabha, the lower house of the Parliament of India.
- They act as the presiding officer in case of leave or absence caused by death or illness of the Speaker of the Lok Sabha.
- It is by **Convention** that position of Deputy Speaker is offered to opposition party in India.
- The Deputy Speaker is elected in the first meeting of the Lok Sabha after the General elections for a term of 5 years from amongst the members of the Lok Sabha.
- They hold office until either they cease to be a member of the Lok Sabha or they resign.
- They can be removed from office by a resolution passed in the Lok Sabha by an effective majority of its members.
- Since the Deputy Speaker is accountable for the Lok Sabha, the elimination is done by the effective majority in Lok Sabha only.

Powers and Functions of Deputy Speaker

- In case of the absence of the Speaker, the Deputy Speaker presides over the sessions of the Lok Sabha and conducts the business in the house.
- He decides whether a bill is a money bill or a non-money bill.
- The Deputy Speaker while acting as the Speaker maintains discipline and decorum in the house and can punish a member for unruly behaviour by suspending him/her.

- They permit the moving of various kinds of motions and resolutions like the motion of no confidence, motion of adjournment, motion of censure and calling attention notice.

FCRA REGISTRATION TO GOLDEN TEMPLE

Why in news?

- The Union Home Ministry has granted Foreign Contribution Regulation Act (FCRA) registration to the famous Gurdwara Harmandir Sahib, or the Golden Temple, in Amritsar, enabling it to receive foreign donations.
- Any association, non-government organisation (NGO) or registered society requires FCRA registration to receive foreign donations for specified purposes.
- In the present case, the foreign contribution can be used by the Sikh shrine for activities such as providing financial assistance to the poor, medical assistance to the needy and organise langars (free community kitchens).

FOREIGN CONTRIBUTION REGULATION ACT (FCRA)

Focus: GS-II Governance

Why in news?

- The license of six NGOs under Foreign Contribution Regulation Act (FCRA) were suspended by the Union Home Ministry and four of those were Christian association.
- At least two U.S.-based Christian donors are also under the Ministry's scanner for funding NGOs and groups here.

Details

- Concerns have been raised regarding the impact of U.S.-based evangelical donors in regard to Indian associations; a probe is on.
- The Evangelical Churches Association (ECA) was founded in 1950s in Manipur.
- Any organization, association or NGO in India cannot receive foreign funds if they do not have a license under the FCRA, which is regulated by the Home Ministry.
- Suspension of FCRA license means that the NGO can no longer receive fresh foreign funds from donors pending a probe by the ministry.

Foreign Contribution (Regulation) Act, 2010

- The Foreign Contribution (regulation) Act, 2010 is a consolidating act whose scope is to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

Key Points regarding FCRA

- Foreign funding of voluntary organizations in India is regulated under FCRA act and is **implemented by the Ministry of Home Affairs.**
- The FCRA regulates the receipt of funding from sources outside of India to NGOs working in India. It prohibits the receipt of foreign contribution "for any activities detrimental to the national interest".
- The Act held that the government can refuse permission if it believes that the donation to the NGO will adversely affect "public interest" or the "economic interest of the state". However, there is no clear guidance on what constitutes "public interest".
- The Acts ensures that the recipients of foreign contributions adhere to the stated purpose for which such contribution has been obtained.
- Under the Act, organisations require to register themselves every five years.

Non-Governmental Organisations (NGOs) in India

- Worldwide, the term 'NGO' is used to describe a body that is neither part of a government nor a conventional for-profit business organisation.
- NGOs are groups of ordinary citizens that are involved in a wide range of activities that may have charitable, social, political, religious or other interests.

- In India, NGOs can be registered under a plethora of Acts such as the Indian Societies Registration Act, 1860, Religious Endowments Act,1863, Indian Trusts Act, etc.
- India has possibly the largest number of active NGOs in the world.
- Ministries such as Health and Family Welfare, Human Resource Department, etc., provide funding to NGOs, but only a handful of NGOs get hefty government funds.
- NGOs also receive funds from abroad, if they are registered with the Home Ministry under the Foreign Contribution (Regulation) Act (FCRA).

Why have NGOs been controversial recently?

- An Intelligence Bureau (IB) report, submitted to the PMO and National Security Adviser in 2019, alleged that several foreign-funded NGOs were stalling India's economic growth by their obstructionist activism.
- In 2015, the Home Ministry had cancelled the FCRA licences of 10,000 organisations.

How prohibiting International funding of NGOs lead to chilling effect?

- The contribution of NGOs to human rights and public awareness is significant in India. For example, the recognition of the rights of homosexuals and transgender people, developments in the public provision of health and education are unlikely to come about without pressure by NGOs.
- However, most NGOs are neither politically powerful nor have great financial capacity. That's why International funding is crucial for NGOs to function.
- The FCRA restrictions have serious consequences on both the rights to free speech and freedom of association under Articles 19(1)(a) and 19(1)(c) of the Constitution.

The right to free speech is affected in two ways:

1. By allowing only some political groups to receive foreign donations and disallowing some others, can induce biases in favour of the government. NGOs need to tread carefully when they criticise the regime, knowing that too much criticism could cost their survival.
2. Similar to this on unclear guidelines on public interest, in Shreya Singhal v. Union of India (2015), the Supreme Court (SC) struck down Section 66A of the Information Technology Act. The SC held that the Act could be used in a manner that has a chilling effect on free speech.

Golden temple

- Sri Harmandir Sahib, also known as Sri Darbar Sahib or Golden Temple, (on account of its scenic beauty and golden coating), situated in Amritsar (Punjab), is the most sacred temple for Sikhs. This temple propagates Sikhism's message of tolerance and acceptance through its architecture that has incorporated symbols from other religions.
- Guru Arjan Sahib got its foundation laid by a Muslim saint Hazrat Mian Mir ji of Lahore in December 1588.
- Guru Sahib made it accessible to every person without any distinction based on caste, creed, sex and religion.
- Golden Temple, the holiest shrine for Sikhs in Amritsar, attracts approximately seven million tourists in a month.
- It is gold-plated and almost 430 years old.
- Its architecture represents a unique harmony between the Muslim and the Hindu way of construction work and this is considered as one of the best architectural specimens of the world.
- It is often quoted that this architecture has created an independent Sikh school of architecture in the history of art in India.

ANY NON-POLITICAL ORGANISATION CAN GET FCRA EXEMPTION

Why in news?

The Home Ministry has clarified that it has the power to exempt in the public interest "any person or association or organisation" not being a political party or a candidate for election from the provisions of the Foreign Contribution (Regulation) Act, 2010.

Details

- According to the Ministry, Parliament had given powers to exempt any association or organisation, not being a political party, from receiving contributions under the FCRA.
- Using these powers, the Centre had issued an order under which the Prime Minister's National Relief Fund (PMNRF) was exempted from all FCRA provisions.
- Similarly, the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) was granted exemption through a Central government order.
- Six other organisations, including the Overseas India Development Foundation and Bharat Ke Veer, have been extended similar FCRA exemptions.
- The Central government has also exempted all such entities which were created by a Central Act or a State Act and also compulsorily audited by CAG (Comptroller &Auditor General) from all provisions of the FCRA
- This exemption category was "further expanded" by a notification that exempted entities created by Central or State government orders or any entity "fully controlled and owned" by the Central or State governments from FCRA requirements and audit by the CAG.

NO REGULATION NEEDED FOR COMMUNICATION APPS

Why in news?

In key recommendations regarding operations of global communication apps in India, telecom regulator TRAI has said services such as WhatsApp, Facebook Messenger, Apple FaceTime, Google Chat, Skype, Telegram and even newer players such as Microsoft Teams, Cisco Webex and Zoom should not be bound by a regulatory

regime as of now and there should not be specific rules that would mandate them to intercept user calls and messaging.

Details

- Making interception mandatory (such as prescribed for telecom companies) may weaken the protective architecture of the communication apps or expose them to "unlawful actors", TRAI said in views that were immediately criticised by mobile operators' grouping COAI.
- Accusing the regulator of going against level-playing field, COAI alleged the OTT players "remain a threat to national security" in the absence of such scrutiny.
- TRAI's much-awaited recommendations run in complete variance to the strong stand taken by telecom and IT minister Ravi Shankar Prasad who has time and again argued for greater control and scrutiny.

UNION TERRITORY OF LADAKH IN IMPLEMENTATION OF 'JAL JEEVAN MISSION' WITH FOCUS ON WATER QUALITY TESTING.

Focus: GS 2 ; Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Why in News?

In continuation of the mid-term review series on progress of implementation of Jal Jeevan Mission in States/ UTs, status of the mission in the Union Territory of Ladakh was reviewed through video conferencing. The Ministry of Jal Shakti is in the process of assessing the progress made by all the States and Union Territories to achieve the goal of universal coverage of tap water connections in rural households under Jal Jeevan Mission (JJM), the flagship programme of Union Government which aims to provide tap water connection to every rural home of the country by 2024.

It has been explained in the page number 7

LOKPAL: 'BRINGING SYNERGIES IN ANTI-CORRUPTION STRATEGIES'

Context:

Lokpal of India organized a webinar on 'Bringing Synergies in Anti-Corruption Strategies' and it was emphasized that "Corruption whenever present has to be nipped in the bud".

Relevance:

GS-II: Polity and Governance (Constitutional and Non-Constitutional Bodies, Policies and Interventions on Transparency and Accountability in governance)

Dimensions of the Article:

1. About Lokpal
2. Other Important Points regarding the Lokpal
3. Lokpal (Complaint) Rules, 2020
4. Exception for Prime Minister
5. Other Provisions for Fighting Corruption

About Lokpal

- The Lokpal and Lokayukta Act, 2013 establishes Lokpal for the Union and Lokayukta for States **(Statutory Bodies)** to inquire into allegations of corruption against certain public functionaries.

Composition: Lokpal will consist of a chairperson and a maximum of eight members, of which 50% shall be judicial members and 50% shall be from SC/ST/OBCs, minorities and women.

Appointment process: It is a two-stage process.

1. A search committee which recommends a panel of names to the high-power selection committee.
2. The selection committee comprises the Prime Minister, the Speaker of the Lok Sabha, the Leader of the Opposition, the Chief Justice of India (or his nominee) and an eminent jurist (nominated by President based on the recommendation of other members of the panel).

President will appoint the recommended names.

The jurisdiction of Lokpal extends to:

1. 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.
2. The 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 Centre.
3. Any society or trust or body that receives foreign contribution above Rs. 10 lakhs.

Other Important Points regarding the Lokpal

1. **Salaries, allowances and service conditions:** Salaries, allowances and other perks of the Lokpal chairperson will be the same as those for the Chief Justice of India; those for other members will be the same as those for a judge of the Supreme Court.
2. **Inquiry wing and prosecution wing:** Inquiry Wing for conducting preliminary inquiry and Prosecution Wing for the purpose of prosecution of public servants in relation to any complaint by the Lokpal under this Act.
3. **Power with respect to CBI:** Power of superintendence and direction over any investigation agency including CBI for cases referred to them by Lokpal. Transfer of officers of CBI investigating cases referred by Lokpal would need approval of Lokpal.

4. **Timelines for enquiry, investigation:** Act specifies a time limit of 60 days for completion of inquiry and 6 months for completion of investigation by the CBI. This period of 6 months can be extended by the Lokpal on a written request from CBI.
5. **Suspension, removal of Chairperson and member of Lokpal:** The Chairperson or any Member shall be removed from his office by order of the President on grounds of misbehaviour after the Supreme Court report. For that a petition has to be signed by at least one hundred Members of Parliament. Special Court shall be setup to hear and decide the cases referred by the Lokpal.

Lokpal (Complaint) Rules, 2020

- Complaint can be filed with the Lokpal against the sitting Prime Minister, Union Ministers, MPs, bureaucrats, among others.
- A complaint filed against a sitting or former prime minister shall be decided by full bench of Lokpal comprising of its Chairman and all members in admission stage.
- If such complaint is dismissed by the full bench, records of enquiry are not to be published.
- A complaint against Union Minister/ MP is to be looked into by bench of not less than three members.

Exception for Prime Minister

- The Lokpal and Lokayukta Act, 2013 does not allow a Lokpal inquiry if the allegation against the PM relates to international relations, external and internal security, public order, atomic energy and space.
- Complaints against the PM are not to be probed unless the full Lokpal bench considers the initiation of inquiry and at least 2/3rds of the members approve it.
- Such an inquiry against the PM (if conducted) is to be held in camera and if the Lokpal comes to the conclusion that the complaint deserves to be dismissed, the records of the inquiry are not to be published or made available to anyone.

Other Provisions for Fighting Corruption

1. **Prevention of Corruption Act, 1988** provides for penalties in relation to corruption by public servants and also for those who are involved in the abetment of an act of corruption.
2. **The Prevention of Money Laundering Act, 2002** aims to prevent instances of money laundering and prohibits use of the 'proceeds of crime' in India.
3. **The Companies Act, 2013** provides for corporate governance and prevention of corruption and fraud in the corporate sector.
4. **The Foreign Contribution (Regulation) Act, 2010** regulates the acceptance and use of foreign contributions and hospitality by individuals and corporations.

Along with the above legal frameworks, the Indian Penal Code, 1860 sets out provisions which can be interpreted to cover bribery and fraud matters, including offences relating to criminal breach of trust and cheating.

LOK SABHA PASSES AMENDMENT TO JUVENILE JUSTICE ACT

Context:

The Lok Sabha passed a Bill to amend the Juvenile Justice Act 2015 with the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021 in order to strengthen and streamline the provisions for protection and adoption of children.

Relevance:

GS-II: Social Justice (Issues Related to Children, Governance and Government Policies, Issues Arising Out of Design & Implementation of Policies)

Dimensions of the Article:

1. Juvenile Justice (Care and Protection of Children) Act, 2015
2. Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021

Juvenile Justice (Care and Protection of Children) Act, 2015

- The Juvenile Justice (Care and Protection of Children) Act, 2015 replaced the Juvenile Justice (Care and Protection of Children) Act, 2000 to comprehensively address children in conflict with law and children in need of care and protection.
- The Act changes the nomenclature from 'juvenile' to 'child' or 'child in conflict with law'.
- Also, it removes the negative connotation associated with the word "juvenile".
- It also includes several new and clear definitions such as orphaned, abandoned and surrendered children; and petty, serious and heinous offences committed by children.
- The 2015 law also included special provisions to tackle child offenders committing heinous offences in the age group of 16-18 years.
- It mandates setting up Juvenile Justice Boards and Child Welfare Committees in every district. Both must have at least one-woman member each.
- A separate new chapter on Adoption to streamline adoption procedures for an orphan, abandoned and surrendered children,
- Also, the Central Adoption Resource Authority (CARA) was granted the status of a statutory body to enable it to perform its function more effectively.
- All Child Care Institutions, whether run by State Government or by voluntary or non-governmental organisations are to be mandatorily registered under the Act within 6 months from the date of commencement of the Act.

Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021

- Now, "Serious offences" will also include offences for which maximum punishment is imprisonment of more than seven years, and minimum punishment is not prescribed or is of less than seven years. [Serious offences are those for which the punishment under the Indian Penal Code or any other law for the time being is imprisonment between three and seven years.]
- The Juvenile Justice Board inquiries about a child who is accused of a serious offence.
- The Bill amends the present act to provide that an offence which is punishable with imprisonment between three to seven years to be non-cognizable (non-cognizable where arrest is allowed without warrant).
- Presently, the adoption order issued by the court establishes that the child belongs to the adoptive parents. The Bill provides that instead of the court, the District Magistrate (including Additional District Magistrate) will issue such adoption orders.
- The Bill provides that any person aggrieved by an adoption order passed by the District Magistrate may file an appeal before the Divisional Commissioner, within 30 days from the date of passage of such order.

Changes to the Child Welfare Committee (CWC)

- The amendment provides Additional Functions of the District Magistrate as the supervising the District Child Protection Unit, and also mandates the **District Magistrate to conduct a quarterly review of the functioning of the Child Welfare Committee.**
- The amendments include authorizing District Magistrate including Additional District Magistrate to issue adoption orders under Section 61 of the JJ Act, in order to ensure speedy disposal of cases and enhance accountability.It provides that a person will not eligible to be a member of the CWC if he/she:

1. has any record of violation of human rights or child rights,
2. has been convicted of an offence involving moral turpitude,
3. has been removed or dismissed from service of the central government, or any state government, or a government undertaking,
4. is part of the management of a child care institution in a district.

INDIA RANKED 49TH IN CGGI

Context:

India has been ranked 49th in the Chandler Good Government Index (CGGI), which classifies 104 countries in terms of government capabilities and outcomes.

Relevance:

GS-II: Polity and Governance (Government Policies and Interventions for Transparency and Good governance)

Dimensions of the Article:

1. What is Governance?
2. Understanding Good Governance
3. Strategies for good governance
4. What is the Chandler Good Government Index (CGGI)
5. Highlights of the CGGI

What is Governance?

In 1993, the World Bank defined governance as the method through which power is exercised in the management of a country's political, economic and social resources for development.

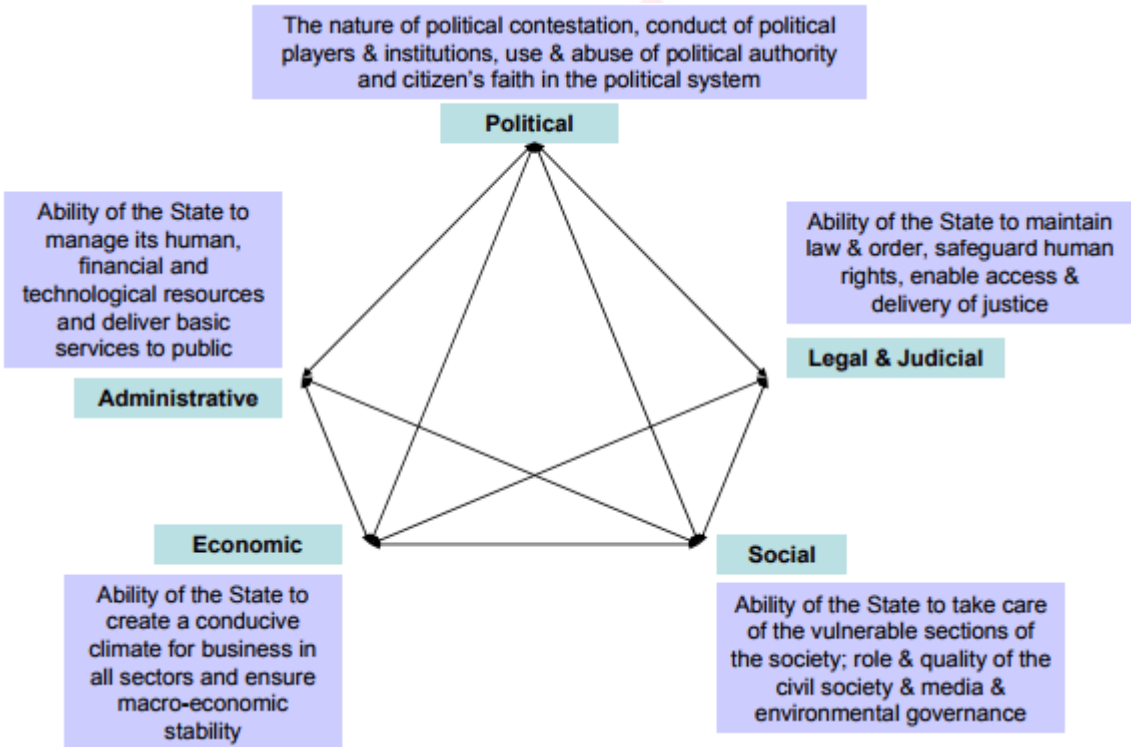
In simple words, **Governance is the process and institutions through which decisions are made and authority in a country is exercised.**

- Governance can be used in several contexts such as corporate governance, international governance, national governance and local governance.
- Thus, governance focuses on the formal and informal actors and institutions involved in decision-making and implementing those decisions.

Government is one of the key actors in governance. Other actors may include political actors and institutions, interest groups, civil society, media, non-governmental and transnational organizations. The other actors involved in governance vary depending on the level of government.

Typically, the stakeholders of governance at national level can be categorised into three broad categories –

1. **State –** includes the different organs of then government (Legislature, Judiciary and Executive) and their instrumentalities, independent accountability mechanisms etc. It also consists of different segments of actors (elected representatives, political executive, bureaucracy/civil servants at different levels etc.)
2. **Market –** includes the private sector – organised as well as unorganised – that includes business firms ranging from large corporate houses to small scale industries/ establishments.
3. **Civil Society –** is the most diverse and typically includes all groups not included in (a) or (b). It includes Non-Governmental Organizations (NGOs), Voluntary Organizations (VOs), media organisations/ associations, trade unions, religious groups, pressure groups etc.



Understanding Good Governance

Governance' by itself is a neutral term while `Good Governance' implies positive attributes and values associated with the quality of governance. Good governance is a dynamic concept and there is much subjectivity involved in defining the aspects of good governance.

United Nations Development Programme (UNDP) recognizes eight core characteristics of good governance:

1	Participation:	Participation of all section of society is cornerstone of good governance. Participatory governance provides opportunities for citizens to take part in decision making, implementation and monitoring of government activities.
2	Consensus oriented	Good governance requires mediation of the different interests in society to reach a broad consensus on o what is in the best interest of the whole community and o how this can be achieved. It also requires a broad and long-term perspective on what is needed for sustainable human development and how to achieve the goals of such development.

3	Rule of Law	Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities and vulnerable sections of the society.
4	Transparent	Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available in easily understandable forms and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media. For example, in India the Right to Information (RTI) Act has been a powerful instrument in the hands of people to ensure transparency in the decision-making process of executive.
5	Accountable	Accountability is the acknowledgment and assumption of responsibility for actions, products, decisions, and policies. The components of accountability are answerability, sanction, redress and system improvement. Accountability cannot be enforced without transparency and the rule of law.
6	Responsive	Good governance requires that institutions and processes try to serve all stakeholders within a reasonable timeframe. Redressal of citizen grievance, citizen orientation, citizen friendliness and timely delivery of services are key component of responsive governance.
7	Effective and Efficient	Good governance means that processes and institutions produce results into the optimum use of resources at their disposal. Thus it also covers the sustainable use of natural resources and the protection of the environment.
8	Equitable and Inclusive	A society's wellbeing depends on ensuring that all its members feel they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, particularly the most vulnerable, have opportunities to improve or maintain their well-being.

Strategies for good governance

1. Reorienting priorities of the state through appropriate investment in human needs
2. Provision of social safety nets for the poor and marginalized
3. Strengthening state institutions
4. Introducing appropriate reforms in the functioning of Parliament and increasing its effectiveness
5. Enhancing Civil Services capacity through appropriate reform measures
6. Forging new alliances with civil society
7. Evolving a new framework for government-business cooperation

What is the Chandler Good Government Index (CGGI)

- The Chandler Good Government (CGGI) Index measures 104 governments' effectiveness and capabilities in almost 90 per cent of the world's population.
- The index uses 34 indicators, which are organised into seven pillars: leadership and foresight; robust laws and policies; strong institutions; financial stewardship; attractive marketplace; global influence and reputation; and helping people rise.
- It taps over 50 publicly available global data sources such as the World Trade Organisation, United Nations and World Bank.

Highlights of the CGGI

- India has been ranked 49th amongst the 104 countries indexed.
- Finland came tops with 0.848 points ahead of Switzerland and Singapore.
- Venezuela was at the bottom of the log at 104, followed by Zimbabwe at 103 followed by Nigeria at 102.
- The report noted that countries that have done well under this pillar are all market economies with sound property rights and stable business regulations.
- It added that the ability to effectively tackle corruption is the indicator with the strongest correlation with overall good government rankings.

HOW VEHICLE TRACKING COULD CURB TAX EVASION?

Context:

In a move that is expected to help curb tax evasion, Goods and Services Tax (GST) authorities will now be able to track real-time data of commercial vehicle (CV) movement on highways by integration of the e-way bill (EWB) system with FASTag and RFID.

Relevance:

GS-II: Polity and Governance (Transparency & Accountability Measures, Government Policies & Interventions), GS-III: Indian Economy

Dimensions of the Article:

1. What are e-way bills?
2. About FASTag
3. About RFID Technology
4. What is the new system involving GST, EWB, FASTag and RFID?

What are e-way bills?

- Under the indirect tax regime, e-way bills have been made mandatory for inter-state transportation of goods valued over Rs 50,000 from April 2018, with exemption to precious item such as gold. On an average, 25 lakh goods vehicle movements from more than 800 tolls are reported on a daily basis to the e-way bill system.
- About 180 crore e-way bills were generated in three years from 2018 to 2021. Of this, only 7 crore bills were verified by tax officers. In the 2020-21 fiscal, 61.68 crore e-way bills were generated, of which 2.27 crore were picked up for verification.
- The top five states which generated the maximum number of e-way bills for inter-state movement of goods are Gujarat, Maharashtra, Haryana, Tamil Nadu and Karnataka.

About FASTag

- FASTag is an electronic toll collection system in India, operated by the National Highway Authority of India (NHAI).
- It employs Radio Frequency Identification (RFID) technology for making toll payments directly from the prepaid or savings account linked to it or directly toll owner.
- As per NHAI, FASTag has unlimited validity. 7.5% cashback offers were also provided to promote the use of FASTag.

- Dedicated Lanes at some Toll plazas have been built for FASTag.

Advantages of Using FASTag

- Digital transaction makes it easier to collect toll fees.
- Congestion in Toll plazas will reduce.
- Non-stop movement at the highways will reduce Fuel consumption and even pollution.
- The Effort in Managing toll gates is reduced as the system is more automated.
- There will also be reduced paper wastage (in the form of tokens/receipts)
- This will be a unifying system as FASTags are not specific to the state or region and work all over India.

Problems with FASTag

- Technical issues and glitches are possible which makes the system susceptible to false charges or other such issues.
- All the toll booths are yet to be made FASTag compatible and this has not necessarily reduced the congestion issue yet.
- The RFID technology is not failproof and can be misused by duplication or other "hacks".
- The FASTags sold by banks have to be recharged from the same bank, as they are not Bank Neutral (unless you buy it directly from NHAI).

About RFID Technology

- Radio Frequency Identification (RFID) uses radio waves to communicate between two objects: a reader and a tag. RFID communication is the same as two-way radio communication in the sense that information is transmitted or received via a radio wave at a specific frequency.
- Passive tags collect energy from a nearby RFID reader's interrogating radio waves. Active tags have a local power source such as a battery and may operate at hundreds of meters from the RFID reader.

RFID applications apart from usage in Toll collection:

- Self-checkins at Libraries / rental services as well as retail premises.
- Livestock Management and pet identification.
- Building Security – secure access controls, documentation and passports.
- Airports – for baggage tracking and tracing/locating.
- SMART home controls – systems to manage home/business energy consumption/production.
- Seismic Sensing – such as locating gas lines and temperature sensing (geophysical).
- Environmental – Energy, Ozone & Pollution measuring equipment.

What is the new system involving GST, EWB, FASTag and RFID?

- **The integration of e-way bill, RFID and FASTag will enable tax officers to undertake live vigilance in respect of EWB compliances by businesses and will aid in preventing revenue leakage by real-time identification of cases of recycling and/or non-generation of EWBs.**

- Tax officers can now access reports about vehicles that have passed the selected tolls without e-way bills in the past few minutes. They can also view details of vehicles carrying critical commodities specific to the state that have passed the selected toll.
- Further, tax authorities can view details of any suspicious vehicles and vehicles of e-way bills generated by suspicious taxpayer GST identification numbers (GSTINs) that have passed the selected toll on a near real-time basis.
- Officers can use these reports while conducting vigilance and make the vigilance activity more effective. Moreover, officers of the audit and enforcement wing can use these reports to identify fraudulent transactions like bill trading, recycling of e-way bills.
- From 2021, RFID/FASTag has been integrated with the e-way bill system and a transporter is required to have a radio-frequency identification (RFID) tag in his vehicle and details of the e-way bill generated for goods being carried by the vehicles are uploaded into the RFID system.
- When a vehicle passes the RFID tag reader on the highway, the details fed into the device get uploaded on the government portal. The information is later used by revenue authorities to validate the supplies made by a GST registered person.

NGT FORMS PANEL TO PROBE CONSTRUCTION IN MEKEDATU

Context:

The National Green Tribunal (NGT), Southern Zone has appointed a joint committee to look into allegations of unauthorised construction activity taking place in Mekedatu, where the Karnataka government had proposed to construct a dam across the Cauvery River.

Relevance:

GS-II: Polity and Governance (Intra-State Relations, Functions & responsibilities of the Union and the States, Issues and challenges of federal structure)

Dimensions of the Article:

1. About the Cauvery River
2. Mekedatu
3. About the proposed Mekedatu Project
4. Cauvery Water Management Authority (CWMA)
5. Cauvery Water Regulation Committee (CWRC)

About the Cauvery River

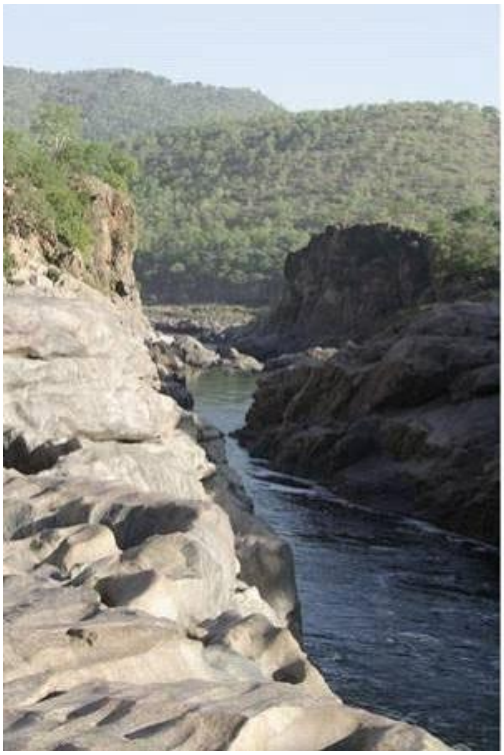
- The Cauvery River (Kaveri), flows in a southeasterly direction through the states of Karnataka and Tamil Nadu and descends the Eastern Ghats in a series of great falls.
- Before emptying into the Bay of Bengal south of Cuddalore, Tamil Nadu the river breaks into a large number of distributaries forming a wide delta called the “Garden of Southern India”
- The Cauvery basin extends over states of Tamil Nadu, Karnataka, Kerala, and Union Territory of Puducherry draining an area of 81 thousand Sq.km.
- It is bounded by the Western Ghats on the west, by the Eastern Ghats on the east and the south, and by the ridges separating it from the Krishna basin and Pennar basin on the north.

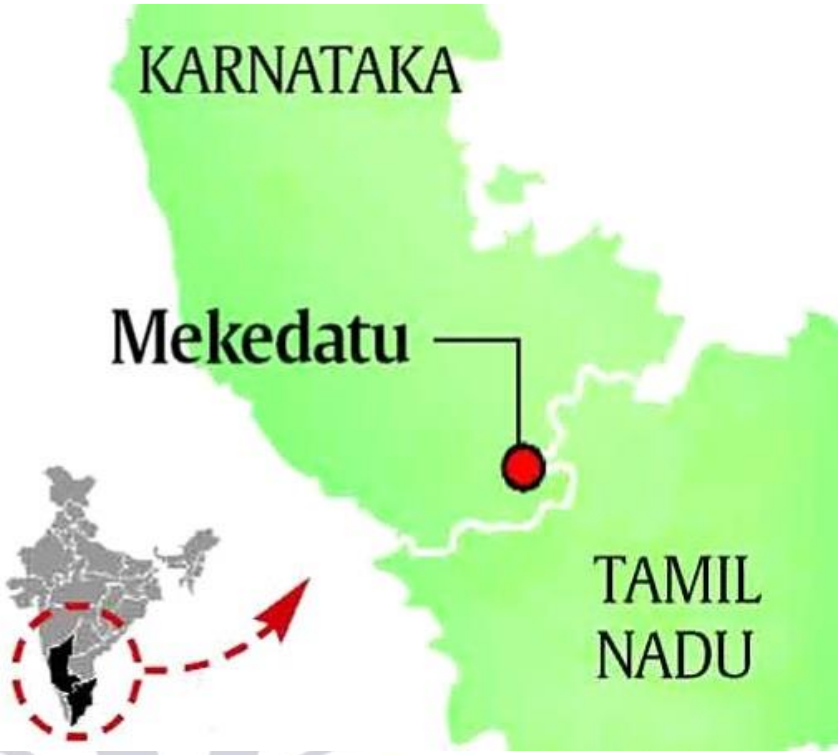
- The Nilgiris, an offshore of Western ghats, extend Eastwards to the Eastern ghats and divide the basin into two natural and political regions i.e., Karnataka plateau in the North and the Tamil Nadu plateau in the South.
- Physiographically, the basin can be divided into three parts – the Westen Ghats, the Plateau of Mysore, and the Delta.
- The delta area is the most fertile tract in the basin. The principal soil types found in the basin are black soils, red soils, laterites, alluvial soils, forest soils, and mixed soils. Red soils occupy large areas in the basin. Alluvial soils are found in the delta areas.
- It is almost a perennial river with comparatively fewer fluctuations in flow and is very useful for irrigation and hydroelectric power generation because its upper catchment area receives rainfall during summer by the south-west monsoon and the lower catchment area during the winter season by the retreating north-east monsoon.
- **Harangi, Hemavati, Shimsha, and Arkavati are the tributaries on the left bank (north) and Lakshmantirtha, Kabbani, Suvarnavati, Bhavani, Noyil, and Amaravati are the tributaries on the right bank (south).**

Mekedatu

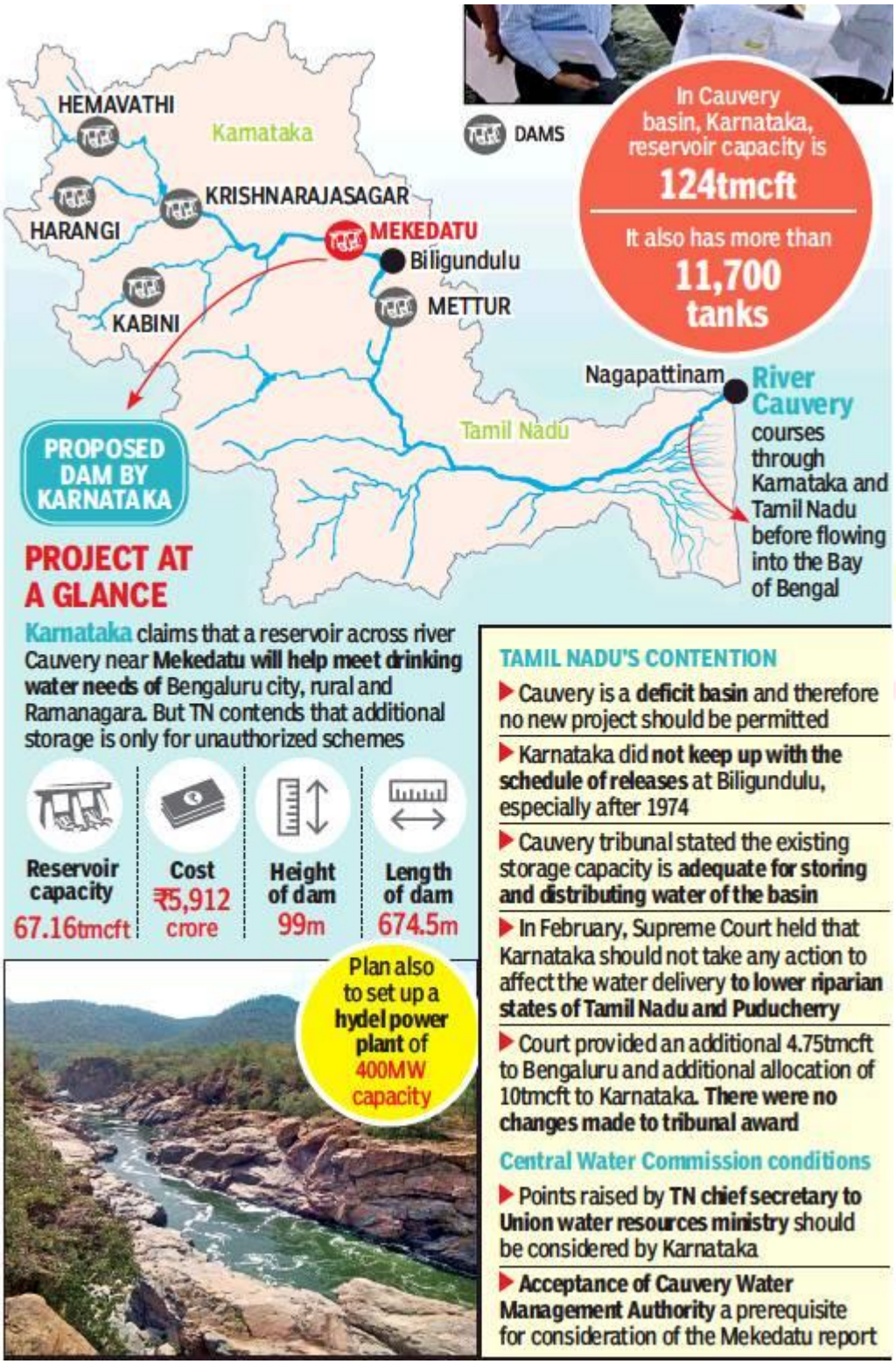
- Mekedatu is a location along Kaveri in the border of Chamarajanagar and Ramanagara Districts. Sangama is the place where Arkavati merges with Kaveri.
- At Mekedaatu, the Kaveri runs through a deep, narrow ravine of hard granite rock.

- The water flows very fast through the gorge, gouging pits in the rocky riverbed.





About the proposed Mekedatu Project



- Ontigondlu is the proposed reservoir site, situated at Ramanagara district in Karnataka about 100 km away from Bengaluru. It is the midst of the Cauvery Wildlife Sanctuary.
- The Rs. 9,000 crore project aims to store and supply water for drinking purposes for the Bengaluru city. Around 400 megawatts (MW) of power is also proposed to be generated through the project.
- The project was first approved by the Karnataka state government in 2017.
- It received approval from the erstwhile Ministry of Water Resources for the detailed project report and is awaiting approval from the Ministry of Environment, Forest and Climate Change (MoEFCC).

- Tamil Nadu had approached the Supreme Court (SC) against the project even if Karnataka has held that it would not affect the flow of water to Tamil Nadu. In 2020, during the Cauvery Water Management Authority's meeting, Tamil Nadu reiterated its opposition to the project.

Cauvery Water Management Authority (CWMA)

- CWMA has been created as per the Cauvery Management Scheme framed by Centre and approved by Supreme Court.
- The Cauvery Management Scheme deals with release of water from Karnataka to Tamil Nadu, Kerala and Puducherry.
- It will be implemented by Cauvery Management Authority (CMA).
- CMA will be sole body to implement CWDT award as modified by Supreme Court.
- The Central Government will have no say in implementing of the scheme except for issuing administrative advisories to it.
- The authority will comprise a chairman, a secretary and eight members.
- Out of the eight members, two will be full time, while two will be part time members from centre's side. Rest four will be part time members from states.
- The main mandate of the CMA will be to secure implementation and compliance of the Supreme Court's order in relation to "storage, apportionment, regulation and control of Cauvery waters".
- CMA will also advise the states to take suitable measures to improve water use efficiency.
- It will do so by promoting use of micro-irrigation, change in cropping patterns, improved farm practices and development of command areas.
- The CMA will also prepare an annual report covering its activities during the preceding year.

Cauvery Water Regulation Committee (CWRC)

- The Central government constituted the Cauvery Water Regulation Committee (CWRC) as per the provisions in the Kaveri Management Scheme laid down by the Supreme Court.
- While the CWMA is an umbrella body, the CWRC will monitor water management on a day-to-day basis, including the water level and inflow and outflow of reservoirs in all the basin states.

WHATSAPP AGAINST TRACEABILITY CLAUSE IN IT RULES 2021

Context:

- WhatsApp's lawsuit taking the Indian government to court over the traceability clause in the new IT Rules 2021 has been filed in the Delhi High Court.
- The new IT rules include a traceability clause that requires social media platforms to locate "the first originator of the information" if required by authorities.

Relevance:

GS-II: Polity and Governance (Government Policies & Interventions, Issues arising out of the design and implementation of such policies)

Dimensions of the Article:

1. Traceability Clause in the new IT Rules

2. What does WhatsApp's lawsuit state?
3. What has WhatsApp said about 'traceability'?
4. Why can't WhatsApp impose traceability?
5. Justice K. S. Puttaswamy (Retd.) vs Union of India Case

Traceability Clause in the new IT Rules

- The new IT rules include a traceability clause that requires social media platforms to locate "the first originator of the information" if required by authorities.
- It should be noted that this rule will impact most messaging apps such as Signal, Telegram, Snapchat, Wire and others.

What does WhatsApp's lawsuit state?

- WhatsApp is invoking the 2017 Justice K S Puttaswamy vs Union Of India case to argue that the traceability provision is unconstitutional and against people's fundamental right to privacy as underlined by the Supreme Court decision.
- The plea states that the court should declare the traceability clause as "unconstitutional" and should not allow it to come into force.
- It is also challenging the clause which puts "criminal liability" on its employees for noncompliance, it is learnt.

What has WhatsApp said about 'traceability'?

- WhatsApp said that the requirement to 'trace' chats would be the "equivalent of asking WhatsApp to keep a fingerprint of every single message sent on WhatsApp." This would mean that the platform will have to break end-to-end encryption, which is turned on by default for all messages. (End-to-end encryption ensures that no third-party, not even the messaging app itself can track or read messages.)
- WhatsApp says it is all for "reasonable and proportionate regulations", but cannot support "eroding privacy for everyone, violating human rights, and putting innocent people at risk."

Why is WhatsApp against finding the originator of a message?

- End-to-end encryption ensures that no one can read the message, except for the sender and the receiver. This includes WhatsApp itself. Nor does the app keep a log of who is sending what message and to whom.
- And given it cannot read the contents of a message, finding the originator is even harder. Further many of the messages are just copied or forwarded by users.
- WhatsApp says that if it had to trace an originator, then it would have to "store information". The argument is tracing even one message means tracing every single message on the platform.
- In order to trace messages, WhatsApp will have to add some sort of "permanent identity stamp" or effectively 'fingerprint' each message, which it says will be like a mass surveillance program.

Why can't WhatsApp impose traceability?

- WhatsApp's argument is that traceability, even if enforced, is not foolproof and could lead to human rights violations.
- Further, they will have to "turn over the names of people who shared something even if they did not create it, shared it out of concern, or sent it to check its accuracy."

- In its blog post, it notes that "innocent people could get caught up in investigations, or even go to jail, for sharing content that later becomes problematic in the eyes of a government." It also adds that such an approach will violate "recognised principles of free expression and human rights."
- Internet experts have also argued against digital fingerprinting techniques to achieve traceability, cautioning these can be easily impersonated.
- Experts are clear that fingerprinting techniques are open to abuse, and in the end will undermine encryption entirely. Apps would have to remove encryption in order to implement such digital signatures on messages.
- WhatsApp says in order "to trace even one message, services would have to trace every message", because "there is no way to predict which message a government would want to investigate in the future". "In doing so, a government that chooses to mandate traceability is effectively mandating a new form of mass surveillance."

WhatsApp's argument on why traceability won't work

- WhatsApp too states that tracing messages will be "ineffective and highly susceptible to abuse."
- If a user simply downloaded an image and shared it, took a screenshot and resent it, or sent an article on WhatsApp that someone emailed, then regardless of not being the original creator – the user who shared it on WhatsApp would be determined to be the originator of that content.
- WhatsApp states that "traceability" goes against the basic principles of how law enforcement and investigations work. In a typical law enforcement request, a government requests technology companies provide account information about a known individual's account. With traceability, a government would provide a technology company a piece of content and ask who sent it first.

Justice K. S. Puttaswamy (Retd.) vs Union of India Case

- The right to privacy of an individual was brought to the fore by the issuance of Aadhar Cards – Retired Justice Puttaswamy challenged the constitutionality of Aadhar before the Supreme Court by filing a writ petition and contended that with regard to all the previous apex court judgements, the Right to Privacy is a fundamental right and the Aadhar procedure violated this right.
- The Supreme Court in its judgement pronounced by a 9-judge bench stressed upon the following points:
- It was held that privacy concerns in this day and age of technology can arise from both the state as well as non-state entities and as such, a claim of violation of privacy lies against both of them.
- The Court also held that informational privacy in the age of the internet is not an absolute right and when an individual exercises his right to control over his data, it may lead to the violation of his privacy to a considerable extent.
- It was also laid down that the ambit of Article 21 is ever-expanding due to the agreement over the years among the Supreme Court judges as a result of which a plethora of rights has been included within Article 21.
- The court stated that Right to Privacy is an inherent and integral part of Part III of the Constitution that guarantees fundamental rights. The conflict in this area mainly arises between an individual's right to privacy and the legitimate aim of the government to implement its policies and a balance needs to be maintained while doing the same.
- The SC also declared that the right to privacy is not an absolute right and any incursion of privacy by state or non-state actors must satisfy the following triple test:

    1. Legitimate Aim

2. Proportionality
3. Legality

Impact of the Judgement

- The decision given in M.P. Sharma v Satish Chandra, which held that the Right to Privacy is not protected by the Constitution of India, stands over-ruled.
- The decision in Kharak Singh, to the degree it holds that Right to Privacy is not guaranteed by Part III, also stands over-ruled.
- The right to privacy of an individual is not only protected by the Constitution under Article 21 but is also an intrinsic part of the scheme of Part III which guarantees fundamental rights.

THE PROMISE AND PERILS OF DIGITAL JUSTICE DELIVERY

Context:

Draft Rules released by the Supreme Court e-Committee on live-streaming and recording court proceedings are a part of the National Policy and Action Plan for implementation of Information and Communication Technology (ICT) in the judiciary.

Relevance:

GS-II: Polity and Governance (Judiciary, Initiatives for Transparency in Governance, Judiciary)

Mains Questions:

In the context of e-Courts project, can technology be used to revolutionise India's courts? Critically examine the feasibility of e-Courts Project. (15 marks)

Dimensions of the Article:

1. Background regarding Live Streaming of Court Proceedings
2. e-Courts Project
1. Need for e-Courts project: Delay in Justice
2. Draft Rules for Live-Streaming Court Proceedings
3. About the Current Phase-III of e-Courts project
4. A cause for concern

Background regarding Live Streaming of Court Proceedings

- All the Courts have been functioning through video conferencing throughout the Covid-19 lockdown in 2020.
- In 2020, the Gujarat High Court became the first Court to live stream judicial proceedings on YouTube channel.
- Advocates, the parties, victims, corpses etc. all are participating in the court proceedings during the course of the hearing through video conferencing.
- **The Supreme Court in Swapnil Tripathi v Supreme Court of India (2018) has ruled in favour of opening up the apex court through live-streaming.**

- It held that the live streaming proceedings is part of the right to access justice under Article 21 of the Constitution. However, the judgment has remained unimplemented.

Benefits

- A live stream would help litigants follow the proceedings in their case and also assess their lawyers' performance. People from far-flung States such as Tamil Nadu and Kerala do not have to travel all the way to the national capital for a day's hearing.
- It would keep a check on lawyers' conduct inside the courtrooms. With the entire country watching them, there would be fewer interruptions, raised voices and adjournments from the lawyers.
- Live-streaming will bring transparency and access to justice.

Drawbacks

- Live streaming of the Courts is susceptible to abuses and it can involve national security concerns and can amount to a violation of the fundamental right to privacy in matrimonial disputes and rape cases.
- The unauthorised reproduction of the live streaming videos is another cause for concern as its regulation will be very difficult at the government's end.
- Concerns have also been raised about the commercial aspect of the whole issue. The agreements with broadcasters should be on a non-commercial basis. No one should profit from the arrangement.
- Infrastructure, especially internet connectivity is also the biggest challenge in implementing the live proceedings of Courts.

e-Courts Project

- The e-Courts project was conceptualized on the basis of the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary – 2005" submitted by e-Committee, Supreme Court of India with a vision to transform the Indian Judiciary by ICT enablement of Courts.
- The e-Courts Mission Mode Project, is a Pan-India Project, monitored and funded by the Ministry of Law and Justice for the District Courts across the country.
- The main aim of the project is to provide efficient & time-bound citizen-centric services delivery as detailed in e-Court Project Litigant's Charter and also enhance judicial productivity, both qualitatively & quantitatively, to make the justice delivery system affordable, accessible, cost-effective, predictable, reliable and transparent.

Need for e-Courts project: Delay in Justice

As per the National Judicial Data Grid:

1. Around 17% of all cases in district and Taluka Courts are three to 5 years old;
2. More than 20% of all cases in High Courts are 5-10 years old, and over 17% are 10-20 years old.
3. Over 66,000 cases are pending before the Supreme Court
4. Over 57 lakh cases are pending before various HCs
5. Over 3 crore cases are pending before various District and Subordinate courts

Draft Rules for Live-Streaming Court Proceedings

- The Supreme Court has released the Draft Model Rules for Live-Streaming and Recording of Court Proceedings recently in 2021, as a part of the National Policy and Action Plan for implementation of Information and Communication Technology (ICT) in the judiciary.
- The Rules would cover live-streaming and recording of proceedings in High Courts, lower courts and tribunals.
- According to the new rules proceedings in high courts can be telecast except for cases relating to matrimonial disputes, gender-based violence, those involving minors and "cases, which in the opinion of the Bench, may provoke enmity amongst communities likely to result in a breach of law and order".
- The final decision as to whether or not to allow the Live-streaming of the Proceedings or any portion thereof will be of the Bench, however, the decision of the Bench will be guided by the principle of an open and transparent judicial process.
- The rules allow for objections to be filed against live streaming in specific cases at the stage of filing of the case or at a later stage and they also allow for archiving of court proceedings for six months.
- The rules also prohibit recording or sharing the telecast on media platforms, including social media and messaging platforms, unless authorised by the court.

About the Current Phase-III of e-Courts project

- The e-Committee of the Supreme Court of India recently released its draft vision document for Phase III of the e-Courts project. **Phases I and II had dealt with digitisation of the judiciary, i.e., e-filing, tracking cases online, uploading judgments online, etc.**
- Even though the job is not complete, particularly at the lower levels of the judiciary, the project can so far be termed a success. This has been particularly so during the COVID-19 pandemic, when physical courts were forced to shut down.
- Phase III of the e-Courts project goes on to propose an "ecosystem approach" to justice delivery. It suggests a "seamless exchange of information" between various branches of the State, such as between the judiciary, the police and the prison systems through the Interoperable Criminal Justice System (ICJS).
- It has been pointed out by organisations such as the Criminal Justice and Police Accountability Project that the ICJS will likely exacerbate existing class and caste inequalities that characterise the police and prison system.
- This is because the exercise of data creation happens at local police stations, which have historically contributed to the criminalisation of entire communities through colonial-era laws such as the Criminal Tribes Act of 1871, by labelling such communities as "habitual offenders". This is of particular concern since the data collected, shared and collated through the e-Courts project will be housed within the Home Ministry under the ICJS.

A cause for concern

- When data collection is combined with extensive data sharing and data storage it becomes a cause for concern -The Supreme Court must take care not to violate the privacy standards that it set in Puttaswamy v. Union of India (2017), especially since India does not yet have a data protection regime.
- There has been a dangerous trend towards creating a 360-degree profile of each person by integrating all of their interactions with government agencies into a unified database.

- This approach has been perfected by social media platforms and technology companies, and the government is now trying to do the same. The difference is that when technology companies do this, we get targeted advertising, but if the government does it, we get targeted surveillance.
- It has been argued that no clear explanation has been offered for why the Home Ministry needs access to court data that may have absolutely no relation to criminal law. Experts say that this process serves no purpose other than profiling and surveillance.

NAGALAND TO FORM PANEL TO PURSUE NAGA ISSUE

Context:

The Nagaland government has decided to institute a committee comprising Opposition leaders to pursue the lingering Naga peace agreement and the Naga political issue with the Centre.

Relevance:

GS-II: Polity and Governance (Centre-State Relations), GS-I: Indian Society

Dimensions of the Article:

1. Who are the Nagas?
2. What is Naga Issue?
3. Peace Initiatives with the Naga
4. NSCN-IM
5. NSCN-IM stand and the deadlock

Who are the Nagas?

- The Nagas are not a single tribe, but an ethnic community, belonging to Indo-Mongoloid Family, that comprises several tribes who live in the state of Nagaland and its neighbourhood.
- There are nineteen major Naga tribes, namely, Aos, Angamis, Changs, Chakesang, Kabuis, Kacharis, Khain-Mangas, Konyaks, Kukis, Lothas (Lothas), Maos, Mikirs, Phoms, Rengmas, Sangtams, Semas, Tankhuls, Yamchumgar and Zeeliang.

What is Naga Issue?

- The key demand of Naga groups has been a Greater Nagalim (sovereign statehood) i.e., redrawing of boundaries to bring all Naga-inhabited areas in the Northeast under one administrative umbrella.
- The Naga inhabited areas include various parts of Arunachal Pradesh, Manipur, Assam and Myanmar.
- The demand also includes the separate Naga Yezabo (Constitution) and Naga national flag.

Peace Initiatives with the Naga

1. **Shillong Accord (1975):** A peace accord was signed in Shillong in which the NNC leadership agreed to give up arms. However, several leaders refused to accept the agreement, which led to the split of NNC.
2. **Ceasefire Agreement (1997):** The NSCN-IM signed a ceasefire agreement with the government to stop attacks on Indian armed forces. In return, the government would stop all counter-insurgency offensive operations.

3. **Framework Agreement (2015):** In this agreement, the Government of India recognised the unique history, culture and position of the Nagas and their sentiments and aspirations. The NSCN also appreciated the Indian political system and governance. However, the details of the agreement are yet to be released by the government.
4. Recently, the State government decided to prepare the Register of Indigenous Inhabitants of Nagaland but later due to pressure from various fractions, the decision was put on hold.

NSCN-IM

- The Isaak Muivah faction of the National Socialist Council of Nagaland (IM), one of the largest Naga groups fighting for an independent Naga homeland.
- They have been engaged in guerrilla warfare against successive Indian administrations since the 1950s.
- One of the main demands of NSCN-IM has been the creation of a sovereign Naga territory that includes Naga-inhabited parts of neighbouring states like Manipur, Assam and Arunachal Pradesh as well as a portion of Burma across the international border, and leaders from those states have long been wary of any accord that would allow the annexation of parts of their land.
- Lack of infrastructure development in the region is one of the perceived reasons for the decades' long insurgency.
- In 2015, NSCN-IM had entered into an historic Peace Accord (Framework Agreement) with Union government to bring lasting peace in Nagaland.

NSCN-IM stand and the deadlock

- The Naga talks have hit the deadlock since early 2020 as the National Socialist Council of Nagaland-(Isak Muivah) (NSCN-IM) leader has refused to hold any dialogue with interlocutor and Nagaland Governor R.N Ravi.
- The Governor's letter to the Nagaland Chief Minister saying "over half a dozen organized armed gangs were brazenly running their respective 'so called governments' challenging the legitimacy of the State government" had caused the situation to worsen.
- There was also an order asking government officials to declare if their family members or relatives are members of any "underground organisation."
- NSCN-IM signed a ceasefire agreement with the Centre in 2001, hence they took offense with the "organized armed gangs" view.
- And also given that in a tribal set-up most people are related to each other, asking government officials to declare regarding their family members was seen as insensitive.
- Following the failure of the breakdown of communication between the NSCN-IM and the Nagaland Governor, the Union Home Minister deputed a team of Intelligence Bureau officials to continue the discussions with the NSCN-IM.

DELHI HC CALLS OUT MISUSE OF UAPA

Context:

By ruling that "terrorist activity" cannot be broadly defined to include ordinary penal offences, the three Delhi High Court orders granting bail to three student-activists marks a crucial moment.

Relevance:

GS-II: Polity and Governance (Government Policies and Interventions, Issues arising out of the design and implementation of policies, Important Judgements)

Dimensions of the Article:

1. The Unlawful Activities (Prevention) Act (UAPA), 1967
2. Unlawful Activities Prevention Amendment Bill, 2019
3. Some Concerning Points about designation of someone as terrorist
4. Issues with UAPA
5. About the Increasing UAPA cases
6. About the recent Delhi HC judgement

The Unlawful Activities (Prevention) Act (UAPA), 1967

- The Unlawful Activities (Prevention) Act (UAPA) of 1967 is an upgrade on the Terrorist and Disruptive Activities (Prevention) Act TADA (which lapsed in 1995) and the Prevention of Terrorism Act – POTA (which was repealed in 2004).
- Its main objective was to make powers available for dealing with activities directed against the integrity and sovereignty of India.
- The National Integration Council appointed a Committee on National Integration and Regionalisation to look into, the aspect of putting reasonable restrictions in the interests of the sovereignty and integrity of India.
- The agenda of the NIC limited itself to communalism, casteism and regionalism and not terrorism.
- However, the provisions of the UAPA Act contravenes the requirements of the International Covenant on Civil and Political Rights.

Unlawful Activities Prevention Amendment Bill, 2019

- The original Unlawful Activities Prevention Act, 1967, dealt with "unlawful" acts related to secession; anti-terror provisions were introduced in 2004.
- It provides special procedures to deal with terrorist activities, among other things.

Key Provisions of the Amendment

- The Bill amends the Unlawful Activities (Prevention) Act, 1967 (UAPA) and additionally empowers the government to designate individuals as terrorists on the same grounds.
- Under the Act, the central government may designate an organisation as a terrorist organisation if it:
    1. commits or participates in acts of terrorism
    2. prepares for terrorism
    3. promotes terrorism
    4. is otherwise involved in terrorism
- **The word "terror" or "terrorist" is not defined.**
- However, a "terrorist act" is defined as any act committed with the intent –

1. to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India
2. to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country

- The central government may designate an individual as a terrorist through a notification in the official gazette.
- The Bill empowers the officers of the National Investigation Agency (NIA), of the rank of Inspector or above, to investigate cases.
- Under the Act, an investigating officer can seize properties that may be connected with terrorism with prior approval of the Director General of Police.

Some Concerning Points about designation of someone as terrorist

- **The government is NOT required to give an individual an opportunity to be heard before such a designation.**
- At present, legally, a person is presumed to be innocent until proven guilty.
- In this line, an individual who is convicted in a terror case is legally referred to as a 'terrorist'.
- And those suspected of being involved in terrorist activities are referred to as 'terror accused'.
- **The Bill does NOT clarify the standard of proof required to establish that an individual is involved or is likely to be involved in terrorist activities.**
- The Bill also does not require the filing of cases or arresting individuals while designating them as terrorists.

Issues with UAPA

- UAPA gives the state authority vague powers to detain and arrest individuals who it believes to be indulged in terrorist activities. Thus, the state gives itself more powers vis-a-vis individual liberty guaranteed under Article 21 of the Constitution.
- UAPA empowers the ruling government, under the garb of curbing terrorism, to impose indirect restriction on right of dissent which is detrimental for a developing democratic society. The right of dissent is a part and parcel of fundamental right to free speech and expression and therefore, cannot be abridged in any circumstances except for mentioned in Article 19 (2).
- UAPA can also be thought of to go against the federal structure since it neglects the authority of state police in terrorism cases, given that 'Police' is a state subject under 7th schedule of Indian Constitution.

How can the names be removed?

- Application – The Bill seeks to give the central government the power to remove a name from the schedule when an individual makes an application.
- The procedure for such an application and the process of decision-making will also be decided by the central government.
- If an application filed is rejected by the government, the Bill gives the person the right to seek a review within one month of rejection.
- Review committee – Under the amendment Bill, the central government will set up a review committee.
- It will consist of a chairperson (a retired or sitting judge of a High Court) and 3 other members.

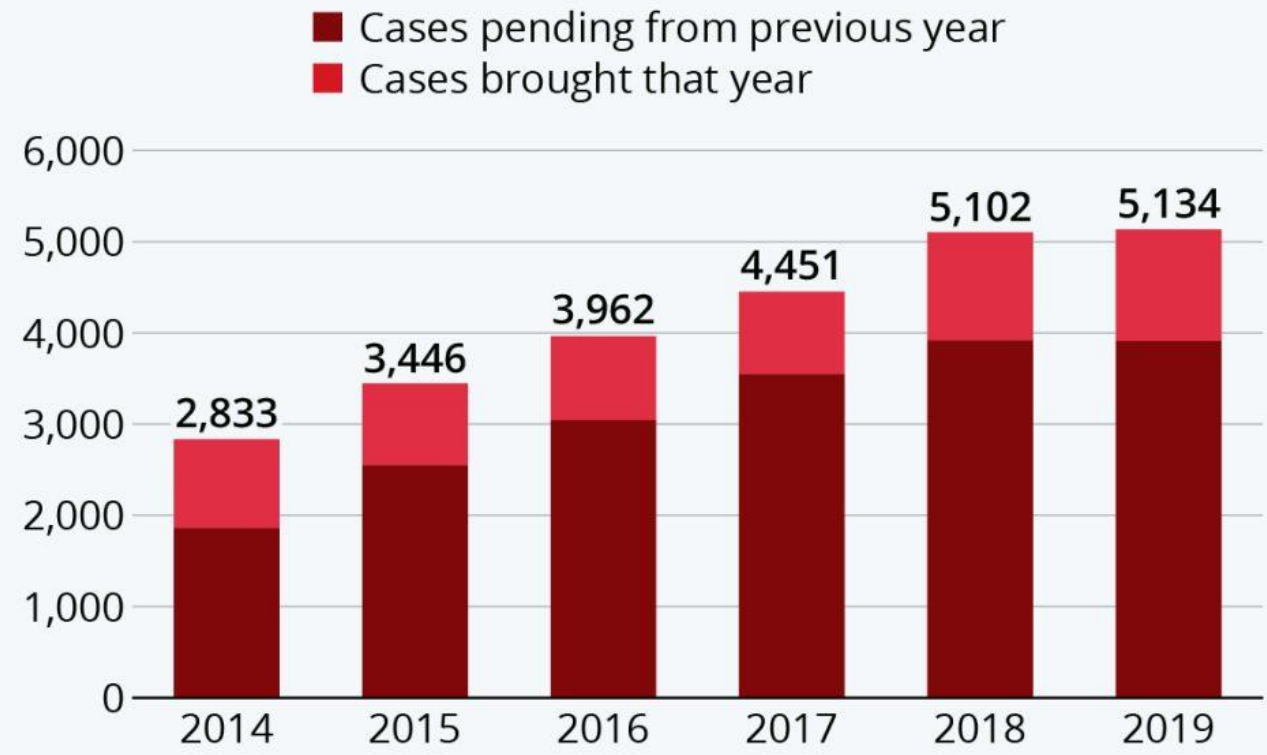
- It will be empowered to order the government to delete the name of an individual from the schedule that lists "terrorists", if it considers the order to be flawed.
- Apart from these two avenues, the individual can also move the courts challenging the government's order.

About the Increasing UAPA cases

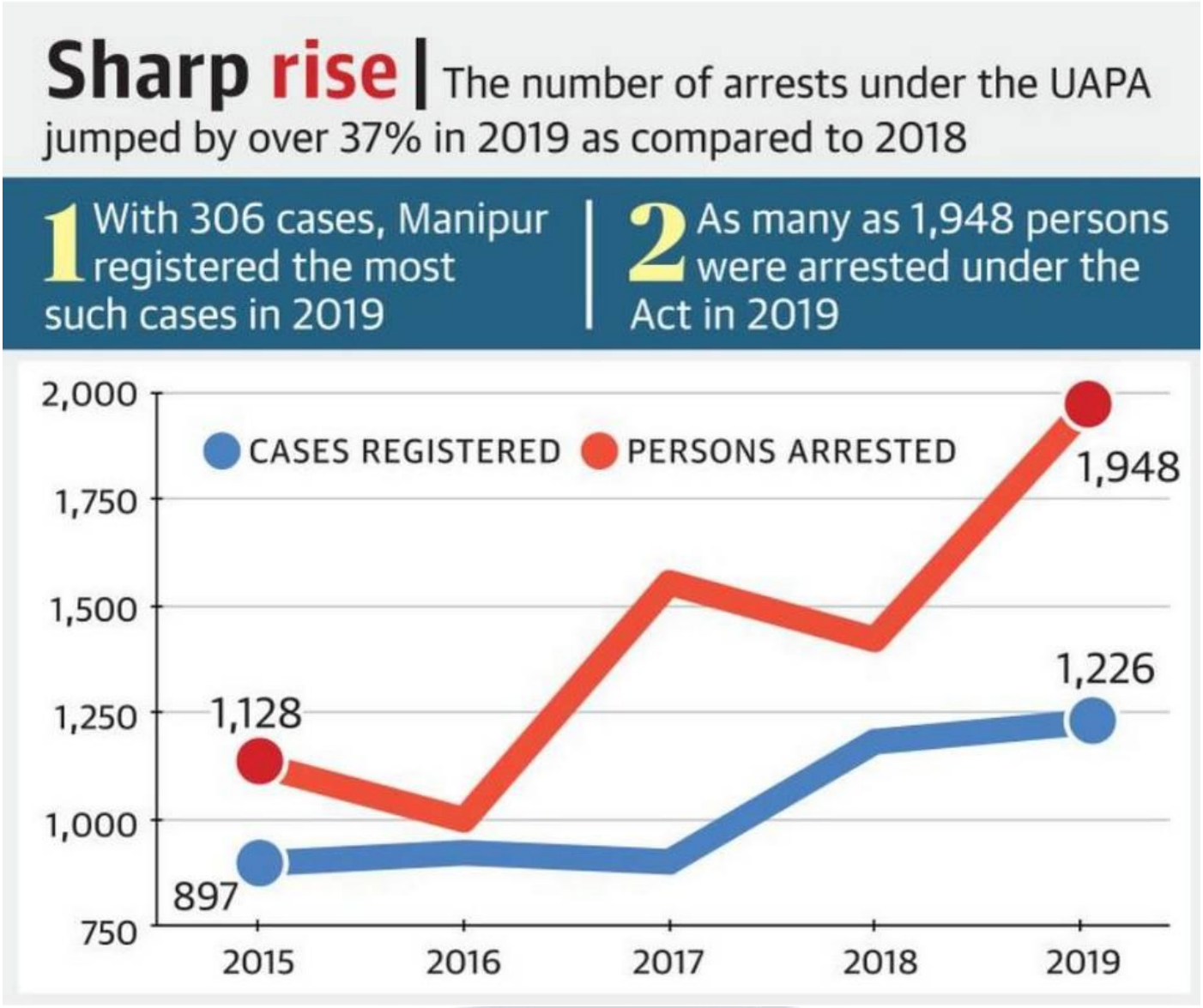
- According to data provided by the Ministry of Home Affairs in Parliament in March, a total of 1126 cases were registered under UAPA in 2019, a sharp rise from 897 in 2015.
- UAPA, in relaxing timelines for the state to file chargesheets and its stringent conditions for bail, gives the state more powers compared to the Indian Penal Code.
- Union Home Ministry presented data in the Rajya Sabha, based on the 2019 Crime in India Report compiled by the National Crime Records Bureau (NCRB), which showed that only 2.2 % of cases registered under the Unlawful Activities (Prevention) Act between the years 2016-2019 ended in convictions by court.
- As many as 1948 persons were arrested under the UAPA in 1226 cases registered across the country in 2019. Such cases registered in 2015-2018 stood at 897, 922, 901 and 1182 and the number of those arrested was 1128, 999, 1554 and 1421 respectively.

Number of Active UAPA Cases on the Rise

Cases filed and cases pending under the Unlawful Activities Prevention Act in India (2014-2019)



Source: National Crime Records Bureau



About the recent Delhi HC judgement

- This is perhaps the first instance of a court calling out alleged misuse of the UAPA against individuals in cases that do not necessarily fall in the category of "terrorism" cases.
- Quoting sections of the Unlawful Activities Prevention Act, 1967, and a string of key Supreme Court rulings on terrorism and terror laws, the court reasoned that "the more stringent a penal provision, the more strictly it must be construed". By doing so, it raised the bar for the State to book an individual for terrorism under the UAPA.
- This caution is significant given the sharp surge in the state's use of this provision in a sweeping range of alleged offences — against tribals in Chhattisgarh, those using social media through proxy servers in Jammu and Kashmir; and journalists in Manipur among others.
- The bail orders also refer to how the Supreme Court itself, in the 1994 case of Kartar Singh v State of Punjab, flagged similar concerns against the misuse of another anti-terror law, the Terrorists and Disruptive Activities (Prevention) Act, 1987.

Interpretation argument

- The Delhi Police argued that the terror clause in UAPA can be invoked, not just for the "intent to threaten the unity and integrity but the likelihood to threaten the unity and integrity", or "the intent to strike terror but the likelihood to strike terror, not just the use of firearms" but also for "causing or likely to cause not just death but injuries to any person or persons or loss orRejecting this interpretation, the court said that it is a "sacrosanct principle of interpretation of penal provisions" that these must be construed strictly and narrowly. This is key to ensuring that a person who was not covered by the legislative ambit does not get roped into a penal provision. damage or destruction of property."
- "The extent and reach of terrorist activity must travel beyond the effect of an ordinary crime and must not arise merely by causing disturbance of law and order or even public order; and must be such that it travels beyond the capacity of the ordinary law enforcement agencies to deal with it under the ordinary penal law," the court said, citing a 1992 SC ruling in the case of Hitendra Vishnu Thakur v State of Maharashtra.

DELIMITATION EXERCISE KICKS OFF IN JAMMU & KASHMIR

Context:

The delimitation commission for the Union Territory of Jammu and Kashmir has kicked off the exercise by writing to all 20 District Commissioners (DC), seeking basic demographic, topographic information as well as the local administration's impressions of political aspirations of the district.

Relevance:

GS-II: Polity and Governance (Government Initiatives and Policies)

Dimensions of the Article:

1. What is Delimitation?
2. How delimitation is carried out?
3. Delimitation Commission
4. Delimitation Commission Act, 2002
5. Jammu & Kashmir Reorganisation Act, 2019
6. About the current Delimitation exercise in Jammu & Kashmir

What is Delimitation?

- Delimitation literally means the act or process of fixing limits or boundaries of territorial constituencies in a country to represent changes in population.
- Delimitation is done in order
    - to provide equal representation to equal segments of a population,
    - to facilitate Fair division of geographical areas so that one political party doesn't have an advantage over others in an election.
    - To follow the principle of "One Vote One Value".

How delimitation is carried out?

- Under Article 82, the Parliament enacts a Delimitation Act after every Census.

- Under Article 170, States also get divided into territorial constituencies as per Delimitation Act after every Census.
- Once the Act is in force, the Union government sets up a Delimitation Commission.
- The first delimitation exercise was carried out by the President (with the help of the Election Commission) in 1950-51.
- The Delimitation Commission Act was enacted in 1952.
- Delimitation Commissions have been set up four times — 1952, 1963, 1973 and 2002 under the Acts of 1952, 1962, 1972 and 2002.
- There was no delimitation after the 1981 and 1991 Censuses.

Delimitation Commission

- The Delimitation commission (or Boundary commission) of India is a commission established by the Government of India under the provisions of the Delimitation Commission Act.
- Hence, Delimitation Commission is a Statutory Body, based on Delimitation Commission Act was enacted in 1952.
- Delimitation Commissions have been set up four times — 1952, 1963, 1973 and 2002 under the Acts of 1952, 1962, 1972 and 2002.

Important Points about the Delimitation Commission:

- The Delimitation Commission is appointed by the President of India and works in collaboration with the Election Commission of India.
- The main task of the commission is redrawing the boundaries of the various assembly and Lok Sabha constituencies based on a recent census.

The representation from each State is NOT CHANGED during this exercise.

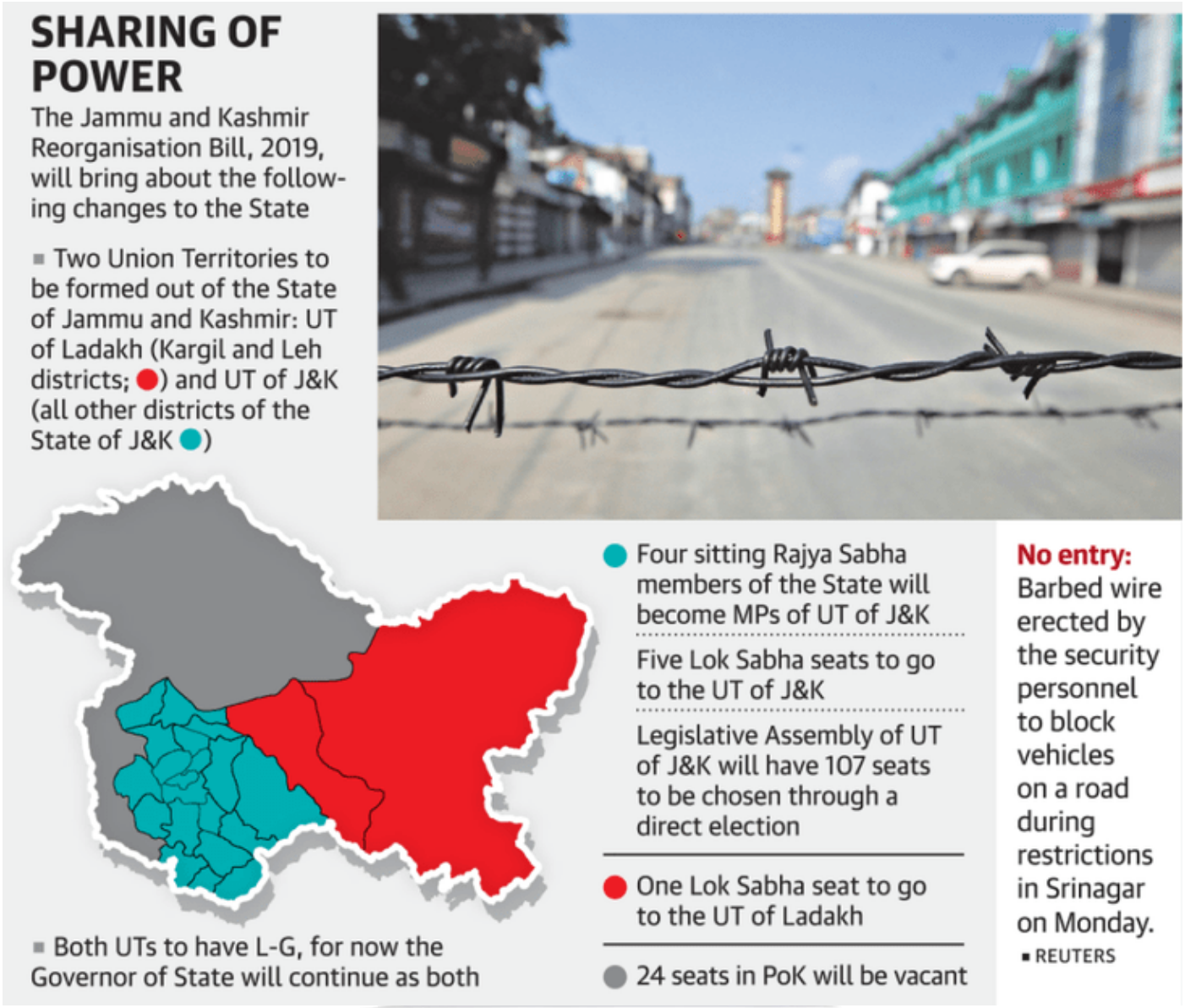
- However, the number of SC and ST seats in a state are changed in accordance with the census.
- The present delimitation of constituencies has been done on the basis of 2001 census under the provisions of Delimitation Act, 2002.
- The Commission is a powerful and independent body whose orders cannot be challenged in any court of law.
- The orders are laid before the Lok Sabha and the respective State Legislative Assemblies. However, modifications are NOT permitted.

Delimitation Commission Act, 2002

- An Act to provide for the readjustment of:
    - The allocation of seats in the House of the People to the States
    - The total number of seats in the Legislative Assembly of each State
    - The division of each State and each Union territory having a Legislative Assembly into territorial constituencies for elections to the House of the People and Legislative Assemblies of the States and Union territories and for matters connected therewith.
- Delimitation literally means the act or process of fixing limits or boundaries of territorial constituencies in a country to represent changes in population.

Jammu & Kashmir Reorganisation Act, 2019

- The Jammu and Kashmir Reorganisation Bill, 2019 was introduced in Rajya Sabha on August 5, 2019 by the Minister of Home Affairs, Mr. Amit Shah.
- The Bill provides for reorganisation of the state of Jammu and Kashmir into the Union Territory of Jammu and Kashmir and Union Territory of Ladakh.
- The Bill reorganises the state of Jammu and Kashmir into: (i) the Union Territory of Jammu and Kashmir with a legislature, and (ii) the Union Territory of Ladakh without a legislature.
- The Union Territory of Ladakh will comprise Kargil and Leh districts, and the Union Territory of Jammu and Kashmir will comprise the remaining territories of the existing state of Jammu and Kashmir.
- The Union Territory of Jammu and Kashmir will be administered by the President, through an administrator appointed by him known as the Lieutenant Governor.
- The Union Territory of Ladakh will be administered by the President, through a Lieutenant Governor appointed by him.
- The High Court of Jammu and Kashmir will be the common High Court for the Union Territories of Ladakh, and Jammu and Kashmir. Further, the Union Territory of Jammu and Kashmir will have an Advocate General to provide legal advice to the government of the Union Territory.
- The Legislative Council of the state of Jammu and Kashmir will be abolished. Upon dissolution, all Bills pending in the Council will lapse.



About the current Delimitation exercise in Jammu & Kashmir

- The commission for delimitation in Jammu Kashmir was set up in February-March 2020 to delineate Assembly and parliamentary constituencies and given a year's extension in March 2020.
- It is only after the completion of the delimitation exercise that elections for the Assembly can be held, although District Development Council (DDC) polls were held in 2020 on earlier patterns and based on the 2011 census.
- The renewed push by the Central government for talks has raised hopes not only of early Assembly elections in Jammu and Kashmir but also of an eventual restoration of statehood, which was taken away under the Jammu and Kashmir Reorganisation Act, 2019, a reading down of Article 370 of the Constitution. For all this, the delimitation exercise, a laborious and sensitive process of carving out parliamentary and Assembly seats, has to be done.

The 2002-2008 exercise

- The then State of Jammu and Kashmir (before reorganization) was kept out of the delimitation exercise when it was carried out in the rest of country (between 2002-2008), as delimitation of Assembly seats was under the Jammu and Kashmir Constitution and its separate Representation of People Act. After

becoming a Union Territory, the delimitation commission was constituted and asked to mark out Assembly and Parliament seats.

TOWARDS A MORE FEDERAL STRUCTURE

Context:

India's hard-won independence and unity needs to be preserved as there are threats from China and there may be threats from Afghanistan after the U.S. withdraws its troops. A transition to a more federal structure will allow the Centre to focus on external threats instead of internal dissensions.

Relevance:

GS-II: Polity and Governance (Centre-State Relations)

Mains Questions:

Will allowing the states to directly collect more tax make them less dependent on the Central government? To what extent will such a move solve the issues with fiscal federalism in India? (10 marks)

Dimensions of the Article:

1. What is fiscal federalism?
2. Structure of fiscal federalism in India:
3. Recent development related to fiscal federalism?
4. Understanding Revenue distribution
5. Challenges to fiscal federalism in India:

What is fiscal federalism?

Fiscal federalism is financial relationship between centre and states, it deals with the division of governmental functions and financial relations among levels of government.

Structure of fiscal federalism in India:

The Seventh Schedule to the constitution of India defines and specifies allocation of powers and functions between Union & States. It contains three lists; i.e., 1) Union List, 2) State List and 3) Concurrent List.

- Union list: The Union Government or Parliament of India has exclusive power to legislate on matters relating to these items.
- State list: The respective state governments have exclusive power to legislate on matters relating to these items.
- Concurrent list: This includes items which are under joint domain of the Union as well as the respective States
- Article 268 to 293 in Part XII deal with the financial relations.

Recent development related to fiscal federalism?

Three landmark changes in union-state fiscal relations since 2015-16 have been:

1. The abolition of the Planning Commission in January 2015 and the subsequent creation of the NITI Aayog.

2. Fundamental changes in the system of revenue transfers from the centre to the states by providing higher tax devolution to the states from the fiscal year 2015-16 onwards based on the recommendations of the Fourteenth Finance Commission (14th FC).
3. The Constitutional amendment to introduce the Goods and Services Tax (GST) and the establishment of the GST Council for the central and state governments to deliberate and jointly take decisions.

Finance commission of India: The Finance Commission is a Constitutionally mandated body that is at the centre of fiscal federalism. Set up under Article 280 of the Constitution, its core responsibility is to evaluate the state of finances of the Union and State Governments, recommend the sharing of taxes between them, lay down the principles determining the distribution of these taxes among States.

Understanding Revenue distribution

- Direct taxes are income tax and corporate tax. In the U.S., both the federal and State governments collect such taxes from individuals and corporations. This is true in Switzerland and some other countries as well.
- However, in India, direct taxes go entirely to the Central government. The Central government is supposed to distribute 41% of its gross tax revenues (reduced from 42% after the formation of new Union Territories in Jammu and Kashmir) to the State governments. In the U.S., the federal government distributes about 15% of its revenues.

Issue: Dependency of the States

- State governments get funds from the Central government according to the Finance Commission's recommendations.
- Usually, the Central government does not meet the 41% target. We see various States either petitioning or coming into conflict with the Central government on this issue.
- State governments also raise their own funds largely through taxes on liquor, property, road and vehicles. At an all-India level, the States get 26% of their total revenue from the Central government.
- Some of the so-called poorer States get up to 50% of their total revenue from the Central government, making them even more dependent. This gives more economic power to the Central government and allows ruling parties at the Centre to use these funds to their advantage.

Issue: Regional disparity

- Maharashtra, Delhi and Karnataka contribute the lion's share of taxes to the government. These three regions along with Tamil Nadu and Gujarat contribute 72% of the tax revenue.
- Uttar Pradesh, which has the largest population in India, contributes only 3.12% but gets over 17% of the revenue distributed by the Central government.
- Revenue distribution is based on complex considerations including population and poverty levels. For every ₹100 contributed, southern States get about 51% from the Central government, whereas Bihar gets about 200%.
- The population growth rates in the south have come down to near zero, whereas the population in central and north India continues to grow. The cross subsidy from the south to the north will therefore grow. Meanwhile, job seekers and those looking for higher quality education are flocking to the south.
- On the other hand, political power is concentrated in the north because there are more Lok Sabha seats. The number of seats in each State will be revised in 2026 perhaps based on population and other factors. This has already created apprehension in the southern States that they will be further politically marginalised.

Challenges to fiscal federalism in India:

Horizontal imbalances

- The horizontal imbalances arise because of differing levels of attainment by the states due to differential growth rates and their developmental status in terms of the state of social or infrastructure capital.
- However, Replacing the Planning Commission with NITI Aayog has reduced the policy outreach of government by relying only on single instrument of fiscal federalism i.e., Finance commission.
- This approach if not reviewed can lead to a serious problem of increasing regional and sub regional inequalities.

Vertical Imbalances

- Vertical imbalance arises due to the fiscal asymmetry in powers of taxation vested with the different levels of government in relation to their expenditure responsibilities prescribed by the constitution.
- Central Government collects around 60% of the total taxes, while its expenditure responsibility (for carrying out its constitutionally mandated responsibility such as defence, etc.) is only 40% of the total public expenditure.
- Such vertical imbalances are even sharper in the case of the third tier consisting of elected local bodies and panchayats.
- Vertical imbalances can adversely affect India's urbanization, the quality of local public goods and thus further aggravating the negative externalities for the environment and climate change.

Way forward

Treating the new fiscal federal architecture based on the effective decentralization, transparent GST regime, independent Finance commission and effective NITI Aayog can strengthen India's unique cooperative federalism.

POLICY CREEP: ON E-COMMERCE AND OVERREGULATION RISKS

Context:

Barely 11 months after the Government notified the Consumer Protection (E-Commerce) Rules, 2020, the Department of Consumer Affairs has mooted a set of sweeping amendments, ostensibly "to protect the interests of consumers and encourage free and fair competition in the market".

Relevance:

GS-II: Polity and Governance (Government Policies & I Interventions for better Transparency & Accountability in Governance), GS-III: Indian Economy

Dimensions of the Article:

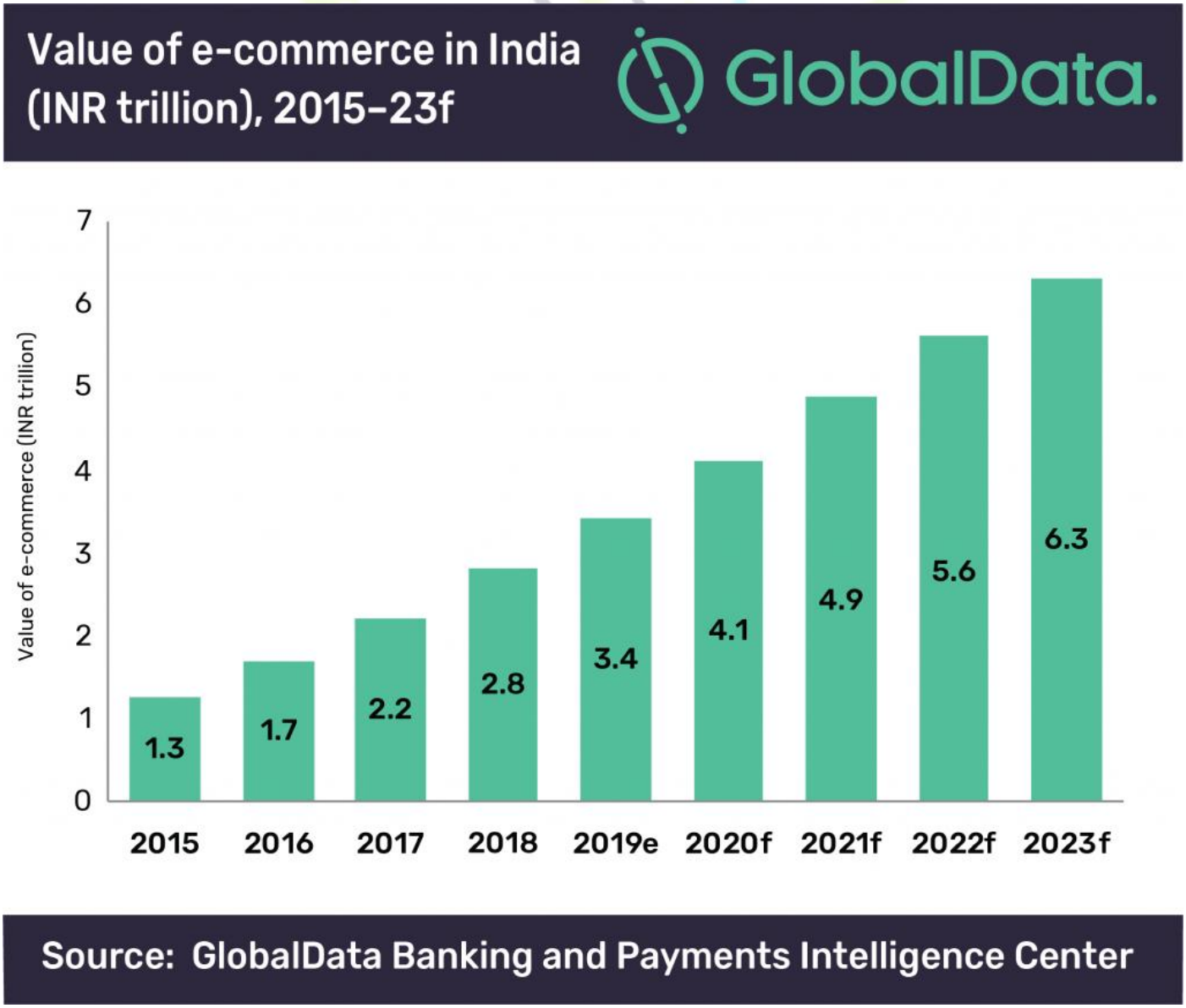
1. What is Electronic Commerce (e-commerce)?
2. About the Consumer Protection (E-Commerce) Rules, 2020
3. Issues with the Consumer Protection (E-Commerce) Rules, 2020
4. Amendments proposed to the E-Commerce Rules, 2020
5. Concerns with the new amendments

What is Electronic Commerce (e-commerce)?

- Electronic commerce or e-commerce (sometimes written as eCommerce) is a business model that lets firms and individuals buy and sell things over the internet.
- E-commerce, which can be conducted over computers, tablets, or smartphones may be thought of like a digital version of mail-order catalog shopping.
- Nearly every imaginable product and service is available through e-commerce transactions, including books, music, plane tickets, and financial services such as stock investing and online banking.

E-commerce in India

- Propelled by rising smartphone penetration, the launch of 4G networks and increasing consumer wealth, the Indian e-commerce market is expected to grow to US$ 200 billion by 2026 from US$ 38.5 billion in 2017.
- India's e-commerce revenue is expected to jump from US$ 39 billion in 2017 to US$ 120 billion in 2020, growing at an annual rate of 51%, the highest in the world.
- The Indian e-commerce industry has been on an upward growth trajectory and is expected to surpass the US to become the second-largest e-commerce market in the world by 2034.



About the Consumer Protection (E-Commerce) Rules, 2020

- The E-Commerce Rules issued by the Ministry of Consumer Affairs, Food and Public Distribution, under the Consumer Protection Act, 2019, apply to:
    - all goods/services bought or sold over digital or electronic network, including digital products,
    - marketplace e-commerce entities (Marketplace Entities) and inventory e-commerce entities (Inventory Entities),
    - all e-commerce retail, including multi-channel single brand retailers and single brand retailers in single and multiple formats such as single brand retailers who use multiple distribution channels such as offline retails stores in addition to e-commerce, and
    - all forms of unfair trade practices (as defined under the CPA 2019) across all models of e-commerce.
- The E-Commerce Rules also apply to entities which are not established in India but systematically offer goods or services to consumers in India.
- The E-Commerce Rules specifically recognize and govern entities that are not established in India but systematically offer goods or services to consumers in India such as offshore online marketplaces.
- In simple words, the Consumer Protection (E-Commerce) Rules, 2020 regulates all commercial transactions sold over a digital or electronic network.

Provisions of the new E-Commerce Rules

- The Consumer Protection (E-commerce) Rules, 2020 are mandatory and are not advisories.
- E-commerce entities are required to provide information to consumers, relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, grievance redressal mechanism, payment methods, security of payment methods, charge-back options and country of origin.
- A manufacturer or product service provider or product seller will be held responsible to compensate for injury or damage caused by defective product or deficiency in services

What the new rules seek to achieve?

- The country-of-origin requirement is significant as India and several other countries are currently re-negotiating their free trade agreements.
- E-com rules prohibit unfair trade practices by entities and sellers on marketplaces and manipulation of price.
- The entities are prohibited from manipulating the price of the goods or services to gain unreasonable profit by imposing unjustified price or charges on consumers.
- The new rules also appear to be a move to ensure regulatory and enforcement control over foreign entities who offer goods and services in India and is in line with a similar classification under the Personal Data Protection Bill, 2019, which extends its applicability to foreign entities who carry on business in India.

Issues with the Consumer Protection (E-Commerce) Rules, 2020

- It remains unclear as to what would constitute price manipulation.
- It also remains unclear how the e-commerce entities and sellers are expected to navigate these roadblocks without falling foul of such provisions.

- Both the marketplace entity and sellers are now required to set up a grievance redressal mechanism, small businesses may not be in a position to comply.
- The rules also prohibit an e-commerce entity from levying a charge for cancellation post confirmation.
- While the provisions may be intended as safeguards that ensure a level-playing field, some of these conditions are impractical.
- Applying identical rules does not convey a business-friendly approach.
- **Lack of clarity in the rules:**
    - There is a lack of clarity regarding what activities may be classified as resulting in 'unreasonable' or 'unjustified' profits or 'unfair' practices.
    - This lack of clarity may result in consumer protection authorities scrutinizing pricing mechanisms used by e-commerce entities.
    - Data-driven pricing may also become an issue when it is used to provide offers or discounts to specific classes of consumers.
    - There is no clarity on what a 'reasonable basis' for such a classification may be, and this may lead to uncertainty with respect to the use of algorithms to customize offers or target specific consumers.

Amendments proposed to the E-Commerce Rules, 2020

- Amendments were proposed to the Consumer Protection (E-commerce) Rules 2020 in order to protect the interests of consumers, prevent their exploitation and encourage free and fair competition in the market.
- One of amendments is proposed in order to ensure compliance of the Consumer Protection Act, 2019 and Rules, which mandates the appointment of Chief Compliance Officer, a nodal contact person for 24×7 coordination with law enforcement agencies, officers to ensure compliance to their orders and Resident Grievance Officer for redressing of the grievances of the consumers on the e-commerce platform.
- Another amendment calls for putting in place a framework for registration of every e-commerce entity with the Department for Promotion of Industry and Internal Trade (DPIIT) for allotment of registration number.
- Another amendment has prohibited mis-selling (i.e., selling goods and services entities selling goods or services by deliberate misrepresentation of information) to protect the interests of consumers.
- One of the Amendments has provided that where an e-commerce entity offers imported goods or services, it shall incorporate a filter mechanism to identify goods based on country of origin and suggest alternatives to ensure fair opportunity to domestic goods – to ensure that the domestic manufacturers and suppliers get a fair and equal treatment on the e-commerce platform.
- Through another amendment, provisions of Fall-back liability for every marketplace e-commerce entity have been provided – to ensure that consumers are not adversely affected in the event where a seller fails to deliver the goods or services due to negligent conduct by such seller.

Concerns with the new amendments

- Following on the heels of the recent IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, the draft e-commerce amendments show the Government's increasing keenness to exercise greater oversight over all online platforms.

The Centre also appears to be signalling its intent to dig in its heels in an intensifying stand-off with Walmart's unit Flipkart, and Amazon, which are both now in court battling an attempt by the Competition Commission of India to reopen a probe into their business practices. The two large e-commerce players have had to contend with accusations that their pricing practices are skewed to favour select sellers on their platforms and that their discounting policies have hurt offline retailers.

- The fact that the latest changes expressly seek to ensure that none of an e-commerce entity's 'related parties and associated enterprises is enlisted as a seller for sale to consumers directly' could also impact several platforms that retail products supplied by vendors with arm's length ties (i.e., when a buyer and seller act independently and have no relationship to each other).
- Protracted legal fights are bound to increase with the enforcement of many of these norms due to the complexities in complying with the amendments,

Way Ahead

- As a growing sector with huge interest from both domestic and international players, it becomes pertinent to regulate E-commerce keeping in mind the interest of both entrepreneurs and consumers.
- A conducive environment and a level playing field should be encouraged while being mindful of shaping a vibrant domestic industry.

MÉNDEZ'S ANTI-TORTURE VISION AND INDIA

Context:

Launched in June 2020, the 'Principles on Effective Interviewing for Investigations and Information Gathering', dubbed the 'Méndez Principles', were developed through a comprehensive, expert-driven consultative process.

Relevance:

GS-II: Polity and Governance (Constitutional Provisions and Historical Underpinnings, Government Policies and Interventions), GS-II: International Relations (Important International Treaties and Agreements)

Dimensions of the Article:

1. About Méndez Principles
2. Benefits and the need to change the way Investigation works
3. Torture as a part of Indian Police culture
4. Report on Torture in India
5. Supreme Court on torture
6. Legislations related to Torture
7. United Nations Convention against Torture
8. Way Forward

About Méndez Principles

- The Méndez Principles aim to provide a cohesive blueprint of practical measures to replace torture and coercive interrogation with "rapport-based" interviews, reinforced through legal and procedural safeguards at every step.
- They offer practical guidance for non-coercive interrogations; address heightened vulnerabilities in custody; and provide specific guidance on training, accountability and implementation.

- They are to apply to all authorities who have the power to detain and question people, including the police, military, and intelligence.
- At their core, the Mendez Principles seek to prevent coercive techniques and torture by introducing a paradigm shift away from "confession" based information gathering.
- The primary innovation of the Méndez Principles is to present positive, normative guidance for what police should do in effective and ethical investigations, rather than simply restating the absolute prohibitions against torture and ill-treatment. Telling police what they can't do doesn't work.
- Crucially, they are grounded in scientific empirical studies across disciplines — psychology, criminology, sociology, neuroscience — which establish that coercive interrogation is counterproductive.

Proved disadvantages of torture tactics

- Extreme torture tactics, such as forced stress positions or waterboarding, have been shown to significantly damage the affected person's memory and recollection of information.
- Aggressive questioning is more likely to make the interviewee resistant, or 'say anything' just for the threat of violence to stop.
- Coercive interviewing leads to unreliable information and false confessions.
- These studies provide scientific evidence to reject the widely-held misconception that a certain degree of 'pressure', or physical pain, will yield accurate information.

Benefits and the need to change the way Investigation works

- It may seem counterintuitive that the integration of human rights safeguards and rapport-based interviewing produces better investigative outcomes, but that is exactly what the body of scientific evidence on interviewing shows.
- When police act in an ethical and trustworthy manner, and when the rights and dignity of people being interviewed are respected, investigative results are more accurate and more comprehensive.
- Experts point to public trust and cooperation of witnesses as one of the most important factors in solving crime.
- Abusive practices do not keep the public safe and do not help police solve crimes.
- However, murder clearance rates are consistently higher in countries where investigative interviewing consistent with the Méndez Principles is used, and where safeguards like the presence of a lawyer during interrogation are implemented.

Torture as a part of Indian Police culture

- Torture is, in fact, an integral part of police culture all over the country and it would not be amiss to argue that this culture in India today is reminiscent of the brutality of the colonial police forces that we are so keen to forget.
- Official data also accept that police torture is a reality, but the quality of such data is always suspect.
- The data on torture show that it is not only an integral part of India's policing culture; in some investigations (such as terror cases), it is treated as the centrepiece.
- The fact is that the current laws facilitate such torture, such as through the admissibility of confessions as evidence under the Terrorist and Disruptive Activities (Prevention) Act and the Prevention of Terrorism Act, which continues refurbished as the Maharashtra Control of Organised Crime Act.

- Unfortunately, policing has also not mainstreamed the upgrade to newer technologies, like DNA analysis, which can directly impact law enforcement practices.

Tacit acceptance by law

- Additionally, Indian law creates conditions which further permit torture through the "back door". While confessions before a police officer are not admissible evidence, to prevent the police from resorting to torture, other legal provisions have the effect of indirectly accommodating the use of torture in investigative practice.
- Section 27 of the Indian Evidence Act permits the admissibility of statements before the police to the extent that they relate to the recovery of material objects, often called 'recovery evidence'.
- Thus, investigators still have incentive to seek "disclosures", and information implicit in a confession, as central to their investigation. Torture and falsification, by forcing an accused to sign on blank papers, are known abuses in the use of this provision.

Report on Torture in India

- Every day, an average of five people die in custody in India, with some of them succumbing to torture in police or judicial custody.
- 2019 was no better, as 117 people died in police custody while 1,606 deaths were recorded in judicial custody.
- And yet, there has not been a single conviction in the deaths of 500 persons allegedly due to torture in police custody between 2005 and 2018.
- The belief that a certain degree of fear and pressure is necessary to compel a suspect to cough up the "truth" is widely held by police officers. This emerged strongly in a 2019 survey of about 12,000 police personnel across India.

A report by the National Campaign Against Torture in 2019

- In 2019, the National Human Rights Commission (NHRC) recorded 1,723 cases of death in custody.
- It noted that "most deaths in police custody occur primarily as a result of torture".
- Of the 125 deaths in police custody, 93 (74.4%) were due to alleged torture or foul play while 24 people (19.2%) died under suspicious circumstances – such as suspected suicide (16 persons), illness (7 persons) and slipping in bathroom (1 person).
- Uttar Pradesh had the highest incidence of such deaths with 14 cases, followed by Tamil Nadu and Punjab with 11 cases each.
- The report also highlighted how while probing non-heinous crimes, police personnel in several states went to the extent of torturing the suspects to death.

Examples of Torture incidents

- The report said from acts like slapping, kicking with boots, beating with sticks, pulling hair, torture also includes barbaric methods like hammering iron nails in the body (as in the case of Gufran Alam and Taslim Ansari of Bihar), applying roller on legs and burning (as happened to Rizwan Asad Pandit of Jammu & Kashmir), and 'falanga' or beating with sticks on the soles (as with Rajkumar of Kerala).
- Sometimes, the police and jail staff even go to the extent of stabbing people with a screwdriver (as Pradeep Tomar of Uttar Pradesh was subjected to) or giving electric shock (as with Yadav Lal Prasad of Punjab and Monu of Uttar Pradesh). Often, private parts are also targeted. There have been instances of

cops pouring petrol on private parts (as in the case of Monu of Uttar Pradesh) or applying chilly powder to them (in the case of Raj Kumar of Kerala)

- As part of torture, the report pointed to cases where the victims were forced to perform oral sex (as in the case of Hira Bajania and 12 others of Gujarat). Also, it said women continue to be tortured or targeted for sexual violence in custody.
- **The report said most victims were from poor and marginalised sections and were targeted because of their socio-economic status.**

Supreme Court on torture

- Even before India signed the UNCAT, our Supreme Court had brought about glorious jurisprudence highlighting the many problems with the country's torture culture.
- In Raghbir Singh v. State of Haryana (1980), the Court was "deeply disturbed by the diabolical recurrence of police torture resulting in a terrible scare in the minds of common citizens that their lives and liberty are under a new peril when the guardians of the law gore human rights to death."
- These sentiments were revisited in Francis Coralie Mullin v. Union Territory of Delhi (1981) and Sheela Barse v. State of Maharashtra (1987), where the Court condemned cruelty and torture as violative of Article 21.
- This interpretation of Article 21 is consistent with the principles contained in the UNCAT. The UNCAT aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world. Although India signed the UNCAT in 1997, it is yet to ratify it.

Legislations related to Torture

- In 2010, Prevention of Torture Bill was passed by the Lok Sabha, and the Rajya Sabha later sent it to a Select Committee for review in alignment with the UNCAT, but the Committee's recommended law, submitted in 2012, never fructified.
- By 2017, the Law Commission had submitted its 273rd report and an accompanying draft torture law. But the Supreme Court dismissed the petition on grounds that the government cannot be compelled to make a law by mandamus; treaty ratification was a political decision; and that it was a policy matter.
- Such reluctance is arguably because all governments appear to collectively agree that police brutality is a necessary evil to maintain law and order.
- There have been opportunities for 23 years to enact a law on torture, but they have been studiously avoided. State consultation also has no meaning.

United Nations Convention against Torture

- The United Nations Convention against Torture (UNCAT) is an international human rights treaty, under the review of the United Nations, that aims to prevent torture and other acts of cruel, inhuman, or degrading treatment or punishment around the world.
- The Convention requires states to take effective measures to prevent torture in any territory under their jurisdiction, and forbids states to transport people to any country where there is reason to believe they will be tortured.
- Since the convention's entry into force, the absolute prohibition against torture and other acts of cruel, inhuman, or degrading treatment or punishment has become accepted as a principle of customary international law.

- The Convention prohibits torture, and requires parties to take effective measures to prevent it in any territory under their jurisdiction. This prohibition is absolute and non-derogable.
- The Convention defines "torture" as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions.

Way Forward

- What we really need is a recognition that torture is endemic and a systemic problem, and the only answer lies in stringent legal framework that is aligned with and committed to the principles of international law under the UN Convention Against Torture (UNCAT) to which India has been a signatory since 1997, and a watertight enforcement mechanism that deters such practices.
- The introduction of so-called scientific techniques of interrogation, such as lie detectors and narco-analysis, are often presented as the solutions to end physical torture. While the scientific validity of these techniques in determining the "truth" is held suspect, Indian law allows evidence voluntarily given by an accused through these techniques to be used as corroborative evidence. Hence, introduction of these techniques should be done only with addressing the existing conditions which perpetuate torture.

Applying Mendez's principles in Indian Context

- With their emergence as a new set of aspirational standards, it is tempting to assess whether the Méndez Principles can readily apply to the Indian context.
- There would need to be a fundamental shift in police thinking before the goal set by the Méndez Principles of moving from coercive practices to "rapport-based interrogation" can be realised.

DEPT OF PUBLIC ENTERPRISES NOW UNDER FINANCE MINISTRY

Context:

The government has reallocated the Department of Public Enterprises (DPE) to the Finance Ministry from the Ministry of Heavy Industries in a bid facilitate its ambitious disinvestment programme.

Relevance:

GS-II: Polity and Governance (Government Policies & Interventions)

Dimensions of the Article:

1. The Buildup to this shifting of DPE
2. About the Department of Public Enterprises (DPE)

The Buildup to this shifting of DPE

- In their report, the Estimates Committee of 3rd Lok Sabha (1962-67) stressed the need for setting up a centralized coordinating unit, which could also make continuous appraisal of the performance of public enterprises.
- This led to the setting up of the Bureau of Public Enterprises (BPE) in 1965 in the Ministry of Finance.

- In 1985, BPE was made part of the Ministry of Industry and in 1990, BPE was made a full-fledged Department known as the Department of Public Enterprises (DPE).
- The 2021 move shifting the DPE to the Ministry of Finance will help in efficient monitoring of the capital expenditure, asset monetisation and financial health of the CPSEs.
- The DPE will now be the sixth department in the finance ministry besides economic affairs, revenue, expenditure, financial services and Department of Investment and Public Asset Management (DIPAM).

About the Department of Public Enterprises (DPE)

- The Department of Public Enterprises (DPE) is the nodal department for all the Central Public Sector Enterprises (CPSEs) [companies in which the direct holding of the Central Government or other CPSEs is 51% or more] and formulates policy pertaining to CPSEs.
- The DPE lays policy guidelines on performance improvement and evaluation, autonomy and financial delegation and personnel management in CPSEs.
- The DPE also collects and maintains information in the form of a Public Enterprises Survey on several areas in respect of CPSEs.
- Other Major Functions of DPE are:
    - Coordination of matters of general policy affecting all Public Sector Enterprises (PSEs).
    - Restructuring or closure of PSEs including the mechanisms.
    - Rendering advice relating to revival.
    - Counselling, training and rehabilitation of employees in CPSEs under Voluntary Retirement Scheme.
    - Categorisation of CPSEs including conferring 'Ratna' status, among others.

U.P.'S NEW POPULATION POLICY

Context:

Uttar Pradesh (UP) unveiled its New Population Policy 2021-30, on the occasion of World Population Day (11th July).

Relevance:

GS-I: Indian Society (Population and Associated Issues), GS-II: Polity and Governance (Government Policies and Interventions, Issues arising out of the design and implementation of policies)

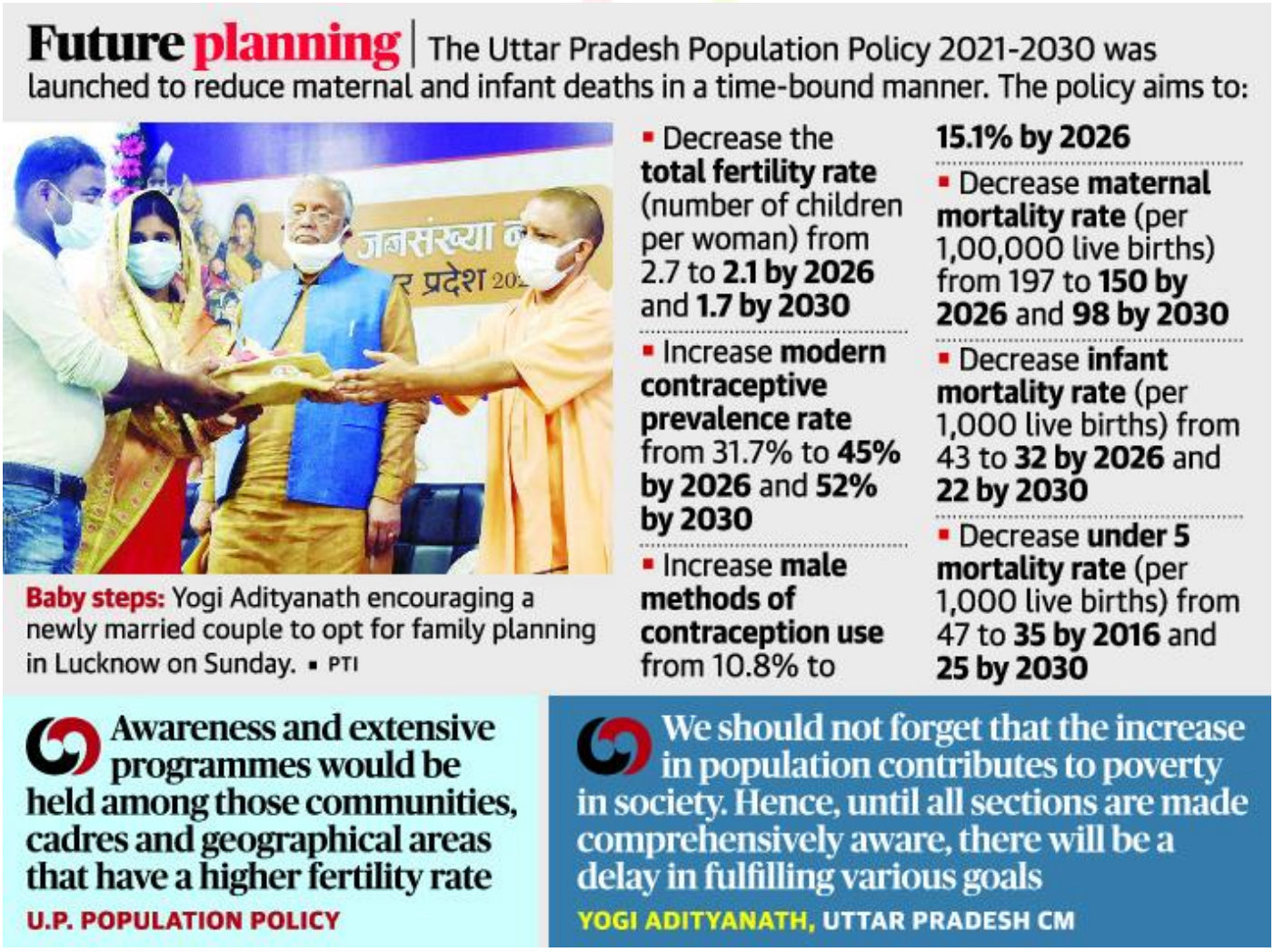
Dimensions of the Article:

1. About U.P.'s New Population Policy
2. What is Two-Child Policy?
3. Criticisms related to two- child policy:
4. Two-Child Policy in Indian States

About U.P.'s New Population Policy

- The U.P. government's law commission has also prepared a population control bill, under which **a two-child norm will be implemented and promoted.**

- As per the draft, violation of the policy is penalised with measures such as barring for elections and abidance is rewarded with measures such as promotion in jobs, subsidy etc.
- The new policy aims to
    1. Decrease the Total Fertility Rate
    2. Increase Modern Contraceptive Prevalence Rate
    3. Increase male methods of contraception use
    4. Decrease Maternal Mortality Rate, Infant Mortality Rate and Under 5 Infant Mortality Rate.
- Targeting population stabilization, the draft of the policy also said the state would attempt to maintain a balance of population among the various communities.



What is Two-Child Policy?

- The two-child policy is a state-imposed limit of two children allowed per family or the payment of government subsidies only to the first two children.
- A two-child policy has previously been used in several countries including Iran, Singapore, and Vietnam.
- In British Hong Kong in the 1970s, citizens were also highly encouraged to have two children as a limit (although it was not mandated by law), and it was used as part of the region's family planning strategies.

- Since 2016, it has been re-implemented in China replacing the country's previous one-child policy.

Criticisms related to two- child policy:

- Critics argue that the population growth of India will slow down naturally as the country grows richer and becomes more educated.
- There are already well-documented problems with China's one-child policy, namely the gender imbalance resulting from a strong preference for boys and millions of undocumented children who were born to parents that already had their one child.
- By interfering with the birth rate, India faces a future with severe negative population growth, a serious problem that most developed countries are trying to reverse. With negative population growth, the number of old people receiving social services is larger than the young tax base that is paying for the social services.
- The law related may also be anti-women. Human rights activists argue that the law discriminate against women right from birth (through abortion or infanticide of female fetuses and babies).
- A legal restriction to two children could force couples to go for sex-selective abortions as there are only two 'attempts'.

Two-Child Policy in Indian States

- Maharashtra: Maharashtra is one of the few states in the country that have a 'two children' policy for appointment in government jobs or even for the elections of some local government bodies. The Maharashtra Zilla Parishads And Panchayat Samitis Act disqualifies people who have more than two children from contesting local body elections (gram panchayats to municipal corporations). The Maharashtra Civil Services (Declaration of Small Family) Rules, 2005 states that a person having more than two children is disqualified from holding a post in the state government. Women with more than two children are also not allowed to benefit from the Public Distribution System.
- Rajasthan: For government jobs, candidates who have more than two children are not eligible for appointment. The Rajasthan Panchayati Raj Act 1994 says that if a person has more than two children, he will be disqualified from contesting election as a panch or a member. However, the previous BJP government relaxed the two-child norm in case of a disabled child.
- Madhya Pradesh: The state follows the two-child norm since 2001. Under Madhya Pradesh Civil Services (General Condition of Services) Rules, if the third child was born on or after January 26, 2001, one becomes ineligible for government service. The rule also applies to higher judicial services.
- Telangana and Andhra Pradesh: Under Section 19 (3) read with Sections 156 (2) and 184 (2) of Telangana Panchayat Raj Act, 1994, a person with more than two children shall be disqualified from contesting election. However, if a person had more than two children before May 30, 1994, he or she will not be disqualified.
- Gujarat: In 2005, the government amended the Gujarat Local Authorities Act. The amendment disqualifies anyone with more than two children from contesting elections for bodies of local self-governance — panchayats, municipalities and municipal corporations.
- Uttarakhand: The state government had decided to bar people with more than two children from contesting panchayat elections and had passed a Bill in Vidhan Sabha in this regard. But the decision was challenged in the High Court by those preparing for village pradhan and gram panchayat ward member elections, and they got relief from the court. Hence, the condition of two-child norm was applied to only those who contested the elections of zila panchayat and blocks development committee membership.

- Karnataka: The Karnataka (Gram Swaraj and Panchayat Raj) Act, 1993 does not bar individuals with more than two children from contesting elections to local bodies like the gram panchayat. The law, however, says that a person is ineligible to contest "if he does not have a sanitary latrine for the use of the members of his family".
- Odisha: The Odisha Zilla Parishad Act bars those individuals with more than two children from contesting.
- Assam: The Assam government announced in 2019 that people who have more than two children will not be eligible for government jobs, with effect from 1 January 2021.

ASSAM-MIZORAM BORDER DISPUTE: BAGGAGE OF THE PAST

Context:

Recently, several IED (Improvised Explosive Device) blasts were carried out inside Cachar district of Assam allegedly by miscreants from Mizoram.

Relevance:

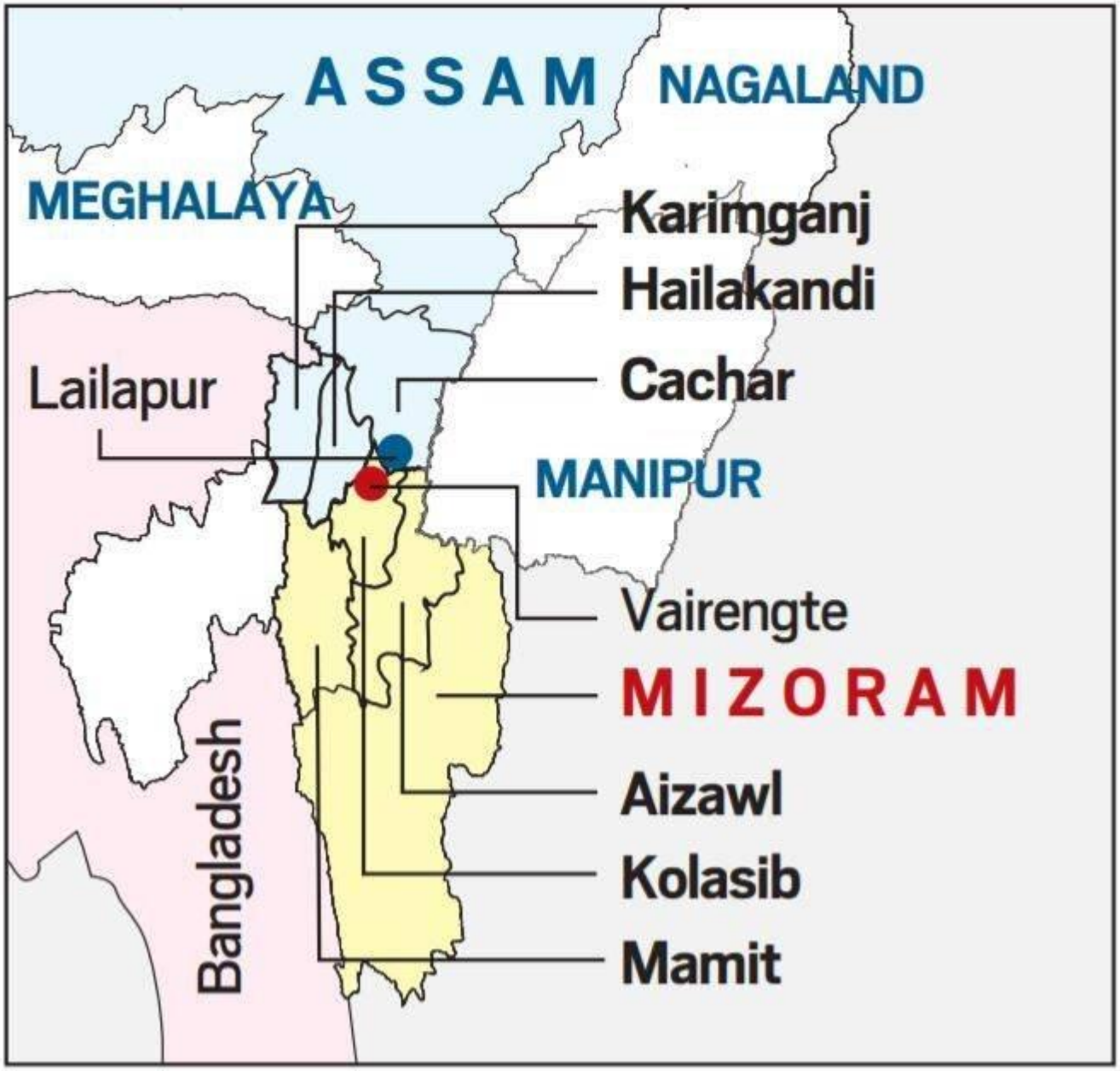
GS-II: Polity and Governance (Inter-State Relations)

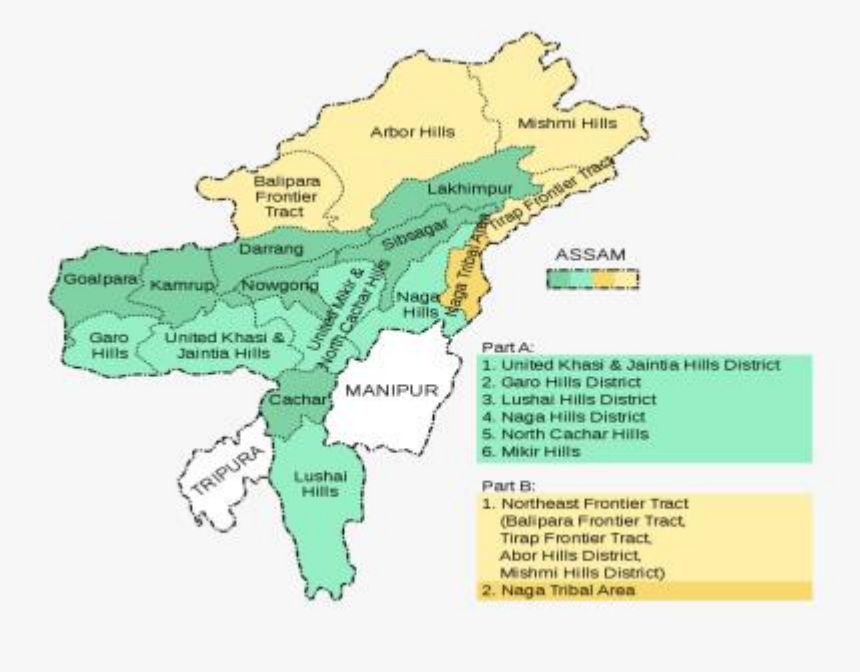
Dimensions of the Article:

1. Background to the Assam – Mizoram Border Dispute
2. Other Boundary Issues in Northeast
3. Way Forward

Background to the Assam – Mizoram Border Dispute

- Mizoram borders Assam's Barak Valley and the boundary between present-day Assam and Mizoram is 165 km long. Both states border Bangladesh.
- The boundary issue between present-day Assam and Mizoram dates back to the colonial era when inner lines were demarcated according to the administrative needs of British Raj.
- Assam became a constituent state of India in 1950 and lost much of its territory to new states that emerged from within its borders between the early 1960s and the early 1970s.
- Mizoram was granted statehood in 1987 by the State of Mizoram Act, 1986.
- The Assam-Mizoram dispute stems from a notification of 1875 that differentiated Lushai Hills (During colonial times, Mizoram was known as Lushai Hills) from the plains of Cachar, and another of 1933 that demarcates a boundary between Lushai Hills and Manipur.
- Mizoram believes the boundary should be demarcated on the basis of the 1875 notification, which is derived from the Bengal Eastern Frontier Regulation (BEFR) Act, 1873.
- According to an agreement between the governments of Assam and Mizoram, the status quo should be maintained in no man's land in the border area.
- In the Northeast's complex boundary equations, clashes between Assam and Mizoram residents are less frequent than they are between other neighbouring states of Assam, like with Nagaland.





Other Boundary Issues in Northeast

During British rule, Assam included present-day Nagaland, Arunachal Pradesh and Meghalaya besides Mizoram, which became separate states one by one.

1. **Assam-Nagaland:** Nagaland shares a 500-km boundary with Assam and achieved statehood in December 1963 and was formed out of the Naga Hills district of Assam and Arunachal Pradesh (then North-East Frontier Agency). Violent clashes and armed conflicts, marked by killings, have occurred on the Assam-Nagaland border since 1965.
2. **Assam-Arunachal Pradesh:** Arunachal Pradesh shares a 800-km boundary with Assam and was granted statehood by the State of Arunachal Pradesh Act, 1986 in 1987. Clashes were first reported in 1992 and since then, there have been several accusations of illegal encroachment from both sides, and intermittent clashes.
3. **Assam-Meghalaya:** Meghalaya shares a 884-km boundary with Assam and came into existence as an autonomous state within the state of Assam in April 1970 comprising the United Khasi and Jaintia Hills and the Garo Hills districts. In 1972, it got statehood. As per Meghalaya government statements, today there are 12 areas of dispute between the two states.

Way Forward

- Boundary disputes between the states can be settled by using satellite mapping of the actual border locations.
- Reviving the Inter-state council (Article 263) can be an option for resolution of an Inter-state dispute.
- Zonal Councils could also be revived to discuss the matters of common concern to states in each zone—matters relating to social and economic planning, border disputes, inter-state transport, etc.

LOK SABHA PASSES TWO BILLS

Context:

The Lok Sabha passed two bills by voice vote without discussion, amid multiple adjournments and continued protests by the Opposition — the Factoring Regulation (Amendment) Bill, 2020, and the National Institutes of Food Technology, Entrepreneurship and Management Bill, 2021.

Relevance:

GS-II: Polity and Governance (Government Policies and Interventions), GS-III: Indian Economy (Growth and Development of Indian Economy, Mobilization of Resources, Industrial Policy, Inclusive Growth)

Dimensions of the Article:

1. Factoring Regulation (Amendment) Bill
2. National Institutes of Food Technology, Entrepreneurship And Management Bill, 2021
3. What are Institutes of National Importance?

Factoring Regulation (Amendment) Bill

- The Factoring Regulation (Amendment) Bill, 2020 was passed to amend the Factoring Regulation Act 2011.
- The bill will help micro, small and medium enterprises (MSME) tide over their issue of delayed payments as it seeks to broaden the participation of entities undertaking factoring.
- The bill is also likely to enhance traction on the TReDS (Trade Receivables Discounting System – TReDS is an online electronic institutional mechanism for facilitating the financing of trade receivables of MSMEs through multiple financiers) platform introduced by the Reserve Bank of India back in 2014 for entrepreneurs to unlock working capital tied in their unpaid invoices.
- The bill also seeks to permit non-banking finance companies (NBFC) other than those whose principal business is factoring to discount invoices on TReDS and also reduce the time period for registration of invoice and satisfaction of charge upon it in order to avoid the possibility of dual financing.

National Institutes of Food Technology, Entrepreneurship And Management Bill, 2021

- Parliament has passed the National Institutes of Food Technology, Entrepreneurship and Management Bill, 2021 – i.e., Lok Sabha passed it after it was cleared by the Rajya Sabha earlier in 2021.
- With the passing of this bill National Institute of Food Technology Entrepreneurship and Management (NIFTEM) in Haryana and Indian Institute of Food Processing Technology (IIFPT) in Tamil Nadu under the Ministry of Food Processing Industries become Institutions of National Importance (INI).
- This step will provide these Institutes Greater Autonomy and hence, that they can start new and innovative courses, as well as help them to attract excellent faculty and students.

What are Institutes of National Importance?

- Institute of National Importance (INI) is a status that may be conferred on a premier public higher education institution in India by an act of Parliament of India.
- Institutes of National Importance receive special recognition and funding from the Government of India.
- INI relatively have higher degree of autonomy and they are allowed to open additional campuses anywhere in India or overseas.

- As of July 2021, there are 161 institutes, declared as Institutes of National Importance under a distinct Act of Parliament.
- These INIs include 23 IITs; 15 AIIMSs; 20 IIMs; 31 NITs; 25 IIITs; 7 IISERs, 7 NIPERs; 5 NIDs; 3 SPAs; 5 central universities; 4 medical research institutes, 2 food technology, and 14 other specialized institutes.

AN EMIGRATION BILL THAT DOES NOT GO FAR ENOUGH

Context:

In early June 2021, the Ministry of External Affairs invited public inputs to the Emigration Bill 2021

Relevance:

GS-II: Governance & Social Justice (Human Resource, Government Policies and Interventions, Issues arising out of the design and implementation of such policies)

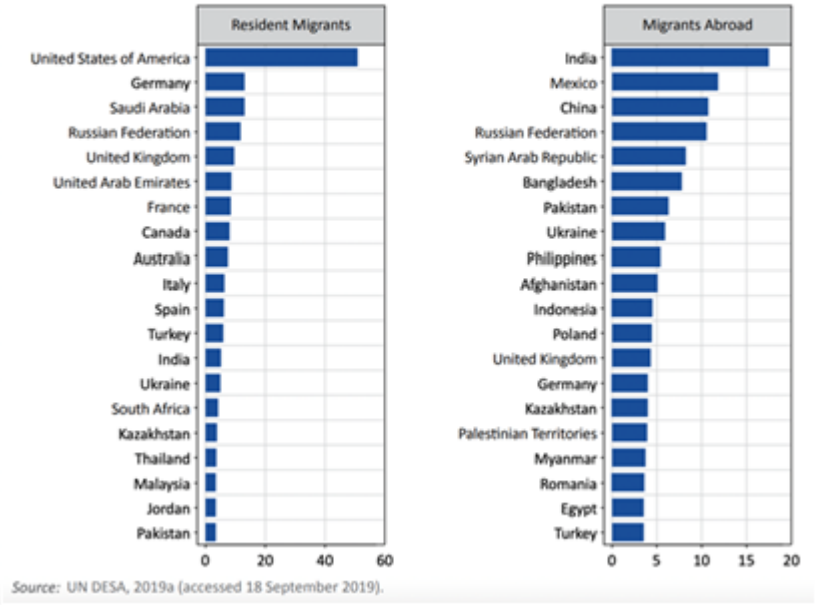
Dimensions of the Article:

1. Indian Migrants travelling abroad
2. Indian Diaspora report as of September 2019
3. Significance of Indian workers in West Asia
4. Why is a change in the Emigration Act, 1983 needed now?
5. About the Emigration Act of 1983
6. Highlights of the Emigration Bill, 2021
7. Criticisms of the Emigration Bill, 2021

Indian Migrants travelling abroad

- India has the highest number of international migrants in the world according a report released by the United Nations Department of Economic and Social Affairs.
- In 2020, 18 million Indians were living abroad (highest), followed by Mexico 11 million, Russia 11 million, China 10 million, and Syria 8 million.

Figure 3. Top 20 destinations (left) and origins (right) of international migrants in 2019 (millions)

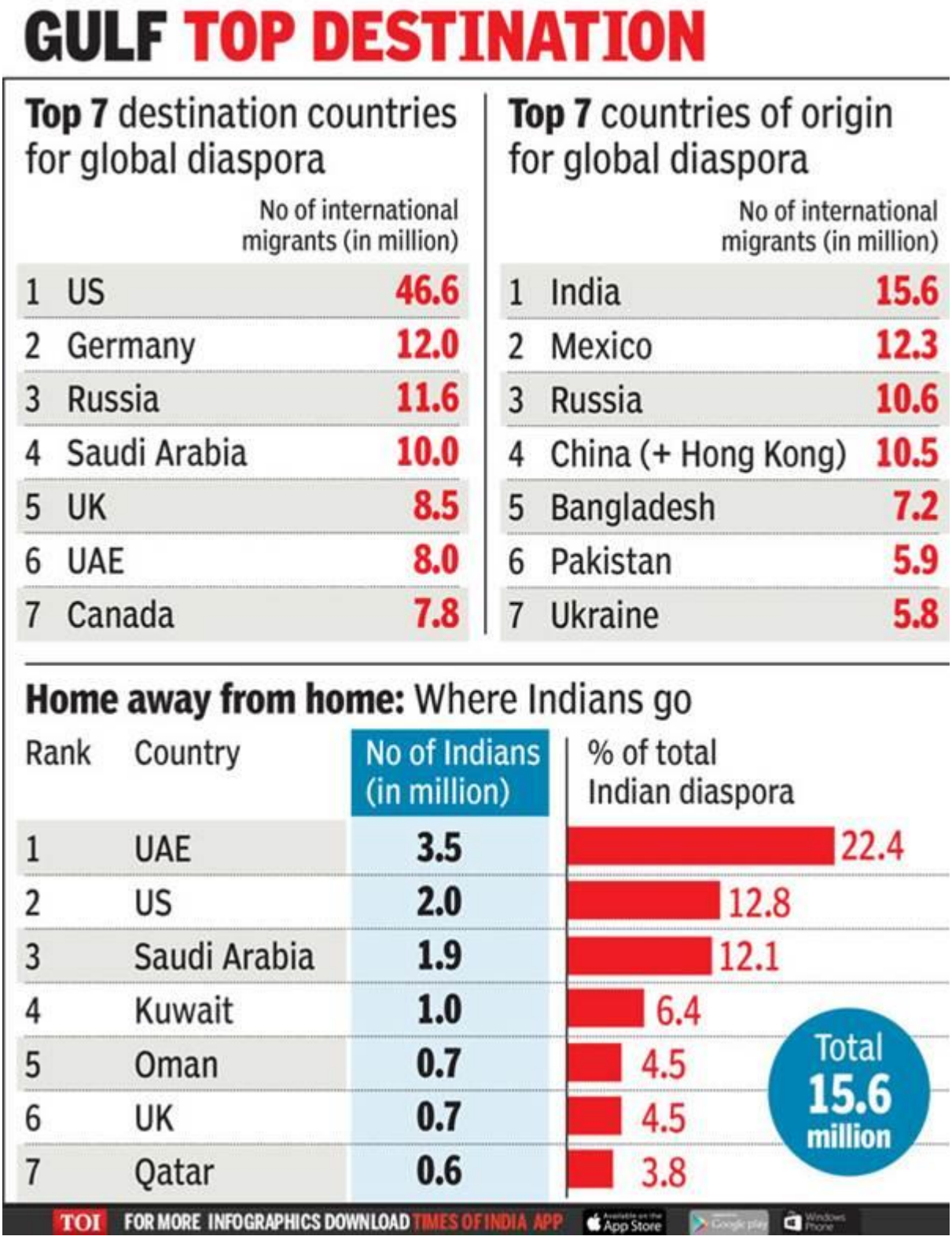


Source: UN DESA, 2019a (accessed 18 September 2019).

- There are two types of international migration from India:
    1. Workers who are categorized as 'unskilled' or 'semi-skilled' and who migrate mostly to the Gulf countries.
    2. The semi-skilled workers, professionals, students who migrate to the advanced capitalist countries.

Indian Diaspora report as of September 2019

- The count of the Indian diaspora has increased 10% from 15.9 million in 2015, making it the largest in the world, according to the UN's International Migrant Stock 2019 released on September 2019.
- It now comprises 6.4% of the total global migrant population.
- In 1990, India was behind Russia and Afghanistan as a source of international migrants at 6.6 million with Russia sending 12.7 million abroad and Afghanistan 6.8 million.
- In 2019, Russia fell to the fourth position behind Indian, Mexico and China with 10.5 million migrants.
- The United Arab Emirates (UAE) was the top destination of Indian migrants followed by the US, Saudi Arabia, Pakistan and Oman, as per the data set compiled by the UN Department of Economic and Social Affairs Division.



Significance of Indian workers in West Asia

- Around 50% of them are unskilled and another 30% are semi-skilled.
- Only a small minority of 20% of them are skilled and lucratively employed, but all these migrant workers together form the backbone of India's ties with the region.
- Their contribution of nearly 40% of the total foreign exchange remittances to India is critical to its economy. Their labour is vital for the GCC economy.

- With no option of assimilation into their host countries, their link to the home country remains intact, unlike Indian immigrants to the West.

Why is a change in the Emigration Act, 1983 needed now?

- For years, independent investigations into conditions of Indian migrant worker living abroad have underlined serious exploitative practices.
- Large recruitment charges, Contract substitution, Retention of passports, Non-payment or underpayment of wages, Poor living conditions, Discrimination and other forms of ill-treatment are the various types of issues faced by Indian migrant workers (especially of the first category: 'unskilled' or 'semi-skilled').
- Prevalence of Poor Working Conditions is very evident, especially for unskilled & semi-skilled labourers who don't have proper guarantees or medical benefits.
- Death of Migrant Workers – majority of migrant worker deaths in the Arab Gulf States/West Asia are attributed to heart attacks and respiratory failures, whose causes are unexplained and poorly understood.

Other Challenges for Migrant Indians to settle abroad

- High Cost of International Migration – lack of financial resources for most unskilled and semi-skilled people to take up travel.
- Difficulty regarding Loans – as the Burden of Loans from institutional & non-institutional sources to cover cost of migration are crushing.
- Loss rather than profit in earning abroad – due to the gap between the migration expenditure incurred and remittances made by international migrants makes life difficult. This also results in flow of capital outside India
- Increased Debt for Migrant Families – because they end up being trapped in the vicious cycle of debts.

About the Emigration Act of 1983

- The Emigration Act, 1983 was passed to regulate emigration of people from India, with the stated goal of reducing fraud or exploitation of Indian workers recruited to work overseas.
- Labour migration is governed by the Emigration Act, 1983 which sets up a mechanism for hiring through government-certified recruiting agents – individuals or public or private agencies.
- It outlines obligations for agents to conduct due diligence of prospective employers, sets up a cap on service fees, and establishes a government review of worker travel and employment documents (known as emigration clearances).
- The Act imposed a requirement of obtaining emigration clearance (also called POE clearance) from the office of Protector of Emigrants (POE), Ministry of Overseas Indian Affairs for people emigrating from India for work.
- Emigration Act was enacted in 1983 in the specific context of large-scale emigration to the Gulf, falls short in addressing the wide geo-economic, geo-political and geo-strategic impact that emigration has today.

Highlights of the Emigration Bill, 2021

- The Bill envisages comprehensive emigration management, institutes regulatory mechanisms governing overseas employment of Indian nationals and establishes a framework for protection and promotion of welfare of emigrants.

- The bill proposes a three-tier institutional framework:
    1. It launches a new emigration policy division in (MEA) which will be referred to as the Central Emigration Management Authority.
    2. It proposes a Bureau of Emigration Policy and Planning, and a Bureau of Emigration Administration shall handle day-to-day operational matters and oversee the welfare of emigrants.
    3. It proposes nodal agencies under a Chief Emigration Officer to ensure the welfare and protection of the emigrants.
- It permits government authorities to punish workers by cancelling or suspending their passports and imposing fines up to Rs 50,000 for violating any of the Bill's provisions. When enforced, it can be used as a tool to crackdown on workers who migrate through unregistered brokers or via irregular arrangements such as on tourist visas.
- The proposed legislation will also maintain registration of human resources agencies, validity and renewal and cancellation of a certificate. Besides, authorities will be empowered to have certain powers of the civil court.

Criticisms of the Emigration Bill, 2021

- This bill **lacks a human rights framework** which aims at securing the rights of migrants and their families. For example, the Philippines human rights framework explicitly recognizes the contributions of Filipino workers and provides the dignity and fundamental human rights and freedoms of the Filipino citizen.
- The penal provisions under the law, **criminalizes the choices migrant workers make** either because they are unaware of the law, under the influence of their recruiters, or simply desperate to find a decent job.
- Further, migrants in an irregular situation who fear that they could be fined or have their passports revoked, are also **less likely to make complaints** or pursue remedies for abuses faced.
- Emigration Bill 2021 allows the manpower agencies **to charge workers for service fees,** and worse is that it allows agents to set their own limits. This is **NOT in accordance with the International Standards.**
    - According to International labour standards provided by International Labour Organization (ILO) recognizes that it is employers, not workers who should bear recruitment payments including the costs of their visas, air travel, medical exams, and service charges to recruiters. ILO and the
    - World Bank reports show that Indian workers pay exorbitant charges for their jobs and that poorer workers pay progressively larger fees. Worker-paid recruitment fees eat into their savings, force them to take high-interest loans, leave workers in situations of debt bondage — a form of forced labour.
- This Bill does **NOT adequately reflect the gender dimensions** of labour migration. Women have limited agency in recruitment compared to their counterparts and are more likely to be employed in marginalised and informal sectors and/or isolated occupations in which labour, physical, psychological, and sexual abuse are common.

INLAND VESSELS BILL 2021

Context:

The Inland Vessels Bill, 2021, was passed in the din without debate in the Lok Sabha.

Relevance:

GS-II: Governance (Government Policies and Initiatives), GS-III: Industry and Infrastructure

Dimensions of the Article:

1. Inland Canals and Waterways in India
2. Inland Waterways Authority of India (IWAI)
3. Legislations regarding Inland Waterways in India
4. Inland Vessels Bill, 2021

Inland Canals and Waterways in India

- India has an extensive network of inland waterways in the form of rivers, canals, backwaters and creeks. The total navigable length is 14,500 km (9,000 mi), out of which about 5,200 km (3,200 mi) of river and 4,000 km (2,500 mi) of canal can be used by mechanized crafts. About 44 million tonnes (49,000,000 short tons) of cargo are moved annually through these waterways using mechanized vessels and country boats.
- Cargo transported in an organized manner is confined to a few waterways in Goa, West Bengal, Assam and Kerala. Inland waterways consist of the Ganges-Bhagirathi-Hooghly rivers, the Brahmaputra, the Barak river, the rivers in Goa, the backwaters in Kerala, inland waters in Mumbai and the deltaic regions of the Godavari-Krishna rivers.
- As per the National Waterways Act, 2016, 111 water ways have been declared as National Waterways (NW) and these National Waterways pass through 24 states and two union territories, with an approximate total length of 20274 km.

Inland Waterways Authority of India (IWAI)

- Inland Waterways Authority of India (IWAI) is the statutory authority in charge of the waterways in India, constituted under IWAI Act-1985 and headquartered in Noida, UP.
- It does the function of building the necessary infrastructure in these waterways, surveying the economic feasibility of new projects and also administration.
- The Authority primarily undertakes projects for development and maintenance of Inland Waterway Terminal infrastructure on National Waterways through grant received from Ministry of Ports, Shipping and Waterways, Road Transport and Highways.

Legislations regarding Inland Waterways in India

- The Inland Waterways Authority of India Act, 1985: The Act provides for the constitution of an Authority for the regulation and development of inland waterways for purposes of shipping and navigation and for matters related to it (IWAI). The Inland Waterways Authority of India was formed in 1986.
- Indian Vessels Act of 1917 (amended in 2007): It deals with the survey and registration of inland vessels, removal of obstructions in navigation, carriage of goods and passengers, prevention and control of pollution etc.
- Inland Water Transport Policy 2001: Policy talks about IWT being economic, fuel-efficient and environment friendly mode of transport. It advocates large-scale private sector participation both for creation of infrastructure and for fleet operations.

- National Waterways Act 2016: The Act declared 111 rivers or river stretches, creeks, estuaries as National (inland) Waterways. It enables the Central Government to regulate these waterways for development with regard to shipping, navigation and transport through mechanically propelled vessels.

Inland Vessels Bill, 2021

- The Inland Vessels Bill, 2021 seeks to do away with separate rules framed by the States and instead incorporate a uniform regulatory framework for inland vessel navigation across the country.
- The Inland Vessels Bill 2021 provides for maintaining a central database, an electronic centralised record of data on inland vessels, which will include all information about registration of vessels, vessel crew and certificates issued.
- The registration certificate provided under the new law will be considered valid all over the country and there will be no need of separate permissions from the states.
- The bill provides that all such vessels must have a registration certificate and survey certificate to operate in inland waters. The registration certificate will be valid across India. The survey certificates will be given by state governments.
- Under the law, the centre will prescribe the classification, standards of design, construction, and crew accommodation and type and periodicity of surveys for these vessels. The Bill also defines mechanically propelled inland vessels to include boats, ships, container vessels, sailing vessels and ferries
- The bill also proposes that the vessels will have to follow certain specifications for signals and equipment to ensure navigation safety. This would be specified by the central government.
- The bill proposes that all accidents aboard such vessels must be reported to the head officer of the nearest police station and to the state government-appointed authority. The state may require the District Magistrate to inquire into such matters and submit a report recommending actions to be taken.
- The Bill also states that all vessels will be required to discharge or dispose of sewage, as per the standards specified by the centre.
- The Inland Vessels Bill 2021 also provides to set up a development fund that will be utilised for various purposes such as for emergency preparedness, containment of pollution and boosting inland water navigation.

LONG OVERDUE

Context:

The Centre has approved reservation for the OBC and EWS categories within the All India Quota for NEET.

Relevance:

- GS Paper 2: Government Policies and Interventions for Development in various sectors and Issues arising out of their Design and Implementation.

Mains Questions:

1. OBC reservation in All-India Quota medical seats puts an end to a discriminatory policy. Discuss. 15 Marks

Dimensions of the Article:

- What is the All India Quota?
- Policy till Now

- What changes now?
- What led to the decision?
- Issues Related to All India Quota
- Conclusion

What is the All India Quota?

- **Supreme Court on September 21, 1986** ordered creation of an All India quota in non-central institutions and directed all States to surrender 15% of seats in under graduation and 25% in post-graduation to the quota so that candidates across the country could compete.
- **In 2005, the apex court** raised the percentage of postgraduate seats to be surrendered from 25% to 50% while deciding *Prakash Sharma versus Union of India.*
- **On January 31, 2007, in Abhay Nath v University of Delhi and Others,** the Supreme Court directed that reservation of 15% for Scheduled Castes and 7.5% for Scheduled Tribes be introduced in the AIQ.
- In deemed/central universities, ESIC, and Armed Forces Medical College (AFMC), 100% seats are reserved under the AIQ.

Policy till Now

- **In 2007 ,government passed the Central Educational Institutions (Reservation in Admission) Act, 2007** providing for 27% reservation to OBC students in central government institutions.
- **While state government medical and dental colleges** provide reservation to OBCs in seats outside the All India Quota, this benefit was so far not extended to seats allocated under the AIQ in these state colleges.
- **The 10% EWS quota under the Constitution (One Hundred And Third Amendment) Act, 2019**, too, has been implemented in central educational Institutions, but not in the NEET AIQ for state institutions.

What changes now?

- **Reservation for the OBC and EWS categories within the AIQ** will be offered in medical colleges from the current academic year. This would benefit nearly 1,500 OBC students in MBBS and 2,500 OBC students in postgraduate courses, and around 550 and 1,000 EWS students respectively, according to a statement issued by the Health Ministry.
- **Between 2017 and 2020, nearly 40,800 seats** have been allocated under the AIQ in colleges run by state governments, a report by the All-India Federation of Other Backward Classes Employees' Welfare states. That implies that up to 10,900 OBC students would have missed out on admission under the OBC quota.

What led to the decision?

- **The denial of OBC and EWS reservation** has been the subject of protests for years. In July last year, on a petition by Tamil Nadu's ruling DMK and its allies, the Madras High Court ruled that OBC students too can avail reservation in the AIQ. It held that the reservation could not be implemented for the then academic year for want of time, and can be implemented from 2021-22.
- **However, when the notification for NEET-2021** was issued on July 13 this year, it did not mention any provision for OBC reservation within the AIQ. The DMK filed a contempt petition and on July 19, the Madras High Court stated, "The Union's attempt to not implement the OBC reservation quota in respect of the all-India quota seats… in the academic year 2021-22 appears to be contumacious, in derogation of the order dated July 27, 2020, passed by this Court."

- **Amid protests from OBC students, including on social media, Solicitor General Tushar Mehta** submitted to the Madras High Court on July 26 that the government's decision on implementing OBC quota for MBBS seats under AIQ in state government colleges is at "very advanced stage". The next hearing is listed for August 3, while other petitions have been filed too, including one by Saloni Kumari.

Issues Related to All India Quota:

- **Opposed By the Medical Council:** In the courts, the Medical Council of India argued against OBC reservation, but the Union government said it was not averse to the reservation, subject to an overall 50% limit.
- **Discriminatory Provisions:** The omission of OBC reservation in the AIQ seats was obviously discriminatory. There were OBC seats in medical institutions run by the Centre, as well as State-specific quotas in those run by the States.
- **It was incongruous** that seats given up by the States to help the Centre redistribute medical education opportunities across the country were kept out of the ambit of affirmative action.
- **There was even a case to argue that, as AIQ seats** originally belonged to the States, the quota policy applicable to the respective States ought to be applied to them.

Conclusion:

- The Centre's decision to extend its 27% reservation for 'other backward classes' to all seats under the AIQ is a belated, but welcome development, as Other Backward Class (OBC) candidates have been denied their due for years.
- And in concord with its keenness to balance OBC interests with those of the socially advanced sections, the Union government has also decided to provide 10% of the AIQ seats to those from the Economically Weaker Sections (EWS).
- This is almost entirely the outcome of a Madras High Court verdict and the efforts of the Dravida Munnetra Kazhagam, which approached the court with the demand.

SC: PREVENTIVE DETENTION ONLY TO PREVENT PUBLIC DISORDER

Context:

Preventive detention, the dreaded power of the State to restrain a person without trial, could be used only to prevent public disorder, the Supreme Court held in a judgment.

Relevance:

GS-II: Polity and Governance (Constitutional Provisions, Fundamental Rights), GS-II: Governance (Government Policies and Interventions)

Dimensions of the Article:

1. About Preventive Detention in India
2. Criticisms of Preventive detention
3. The argument in favour of Preventive detention
4. Recent SC Judgement on Preventive Detention

About Preventive Detention in India

- As the term suggests – Preventive detention helps to prevent a person from committing a crime.

- Article 22 deals with 2 kinds of detentions: Preventive and Punitive. Article 22 (3) (b) of the Constitution allows for preventive detention and restriction on personal liberty for reasons of state security and public order.
- According to Article 22 (4)- in case of preventive detention as well, the person being detained should be informed of the grounds of arrest, however, in case the authorities consider that it is against the public interest to disclose certain facts, they need not reveal them.
- The person cannot be detained under preventive detention for more than 3 months unless permission to do so has been granted by an advisory board consisting of 3 judges of the Supreme Court.
- The other way by which the period of detention can be extended beyond 3 months is if the Parliament prescribes a law for it.
- Acts by the Parliament which provide for extension of Preventive detention period beyond 3 months: National Security Act (NSA) 1980; Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA) 1974; Unlawful Activities Prevention Act (UAPA) 1967, etc.
- Many State legislatures have enacted similar laws that authorize preventive detention.

Criticisms of Preventive detention

- Preventive detention becomes a human rights concern as there have been various incidents of misuse of such laws in India.
- Preventive detention represents the police power of the State.
- No other democratic country mentions preventive detention in its constitution and such laws come into effect only under emergency conditions in democratic countries.

The argument in favour of Preventive detention

- Arbitrary action the State is prevented in India as the areas in the context of which Preventive detention laws can be made are laid down in the 7th Schedule of the Constitution itself.
- In the Union list – laws for Preventive detention can be enacted only for reasons connected with Defence, Foreign Affairs, or the Security of India.
- In the Concurrent list – laws for Preventive detention can be enacted only for reasons connected with Security of a State, the Maintenance of Public Order, or the Maintenance of Essential Supplies and Services.

Recent SC Judgement on Preventive Detention

- The SC said the State should not arbitrarily resort to "preventive detention" to deal with all and sundry "law and order" problems, which could be dealt with by the ordinary laws of the country.
- Preventive detention is a necessary evil only to prevent public disorder. The court must ensure that the facts brought before it directly and inevitably lead to a harm, danger or alarm or feeling of insecurity among the general public or any section thereof at large.
- Whe.never an order under a preventive detention law is challenged, one of the questions the court must ask in deciding its legality is: was the ordinary law of the land sufficient to deal with the situation? If the answer is in the affirmative, the detention order will be illegal.
- Preventive detention must fall within the four corners of Article 21 (due process of law) read with Article 22 (safeguards against arbitrary arrest and detention) and the statute in question.

- Mere contravention of law, such as indulging in cheating or criminal breach of trust, certainly affects 'law and order', but before it can be said to affect 'public order', it must affect the community or the public at large

TRIBUNALS REFORMS BILL, 2021

Context:

The Tribunal Reforms Bill, 2021 was passed in Lok Sabha amid opposition demanding further discussion on the Bill.

Relevance:

GS-II: Polity and Constitution (Constitutional Provisions, Quasi-Judicial Bodies), GS-II: Governance (Government Policies and Interventions)

Dimensions of the Article:

1. The Tribunal Reforms Bill, 2021
2. The Need for the Tribunal Reforms bill
3. Key Issues with the Bill
4. Constitutional provisions and mandates regarding Tribunals
5. Issues with tribunalization

The Tribunal Reforms Bill, 2021

- The Tribunal Reforms Bill, 2021 seeks to withdraw and then replace the:
    1. Cinematograph Act,
    2. Copyright Act,
    3. Customs Act,
    4. Patents Act,
    5. Airport Authority of India Act,
    6. Trade Marks Act, and
    7. Geographical Indications of Goods (Registration and Protection) Act.
- The five tribunals which are sought to be abolished by the Bill (and their functions are to be transferred to the existing judicial bodies) are:
    1. Film Certification Appellate Tribunal,
    2. Airports Appellate Tribunal,
    3. Authority for Advanced Rulings,
    4. Intellectual Property Appellate Board and
    5. The Plant Varieties Protection Appellate Tribunal.
- The government said this would reduce another layer of litigation by abolishing tribunals or authorities under various laws.

- The bill provides for a Search-cum Selection Committee based on whose recommendations the Members of the various tribunals are to be appointed.
- The members of the committee are:
    1. Chief Justice of India, or a Supreme Court Judge nominated by him, as the Chairperson (with casting vote),
    2. two Secretaries nominated by the Union government,
    3. the sitting or outgoing Chairperson, or a retired Supreme Court Judge, or a retired Chief Justice of a High Court; and
    4. the Secretary of the Ministry under which the Tribunal is constituted (with no voting right).
- For state tribunals, there will be a separate search committee consisting of the following members:
    1. the Chief Justice of the High Court of the concerned state, as the Chairman (with a casting vote),
    2. the Chief Secretary of the state government and the Chairman of the Public Service Commission of the concerned state,
    3. the sitting or outgoing Chairperson, or a retired High Court Judge; and
    4. the Secretary or Principal Secretary of the state's general administrative department (with no voting right).
- According to the Bill, the Chairperson of a tribunal shall hold office for a term of four years or till he/ she attains the age of seventy years, whichever is earlier. For the members of the tribunal, the term is four years or till he or she attains the age of sixty-seven years, whichever is earlier

The Need for the Tribunal Reforms bill

- There has been incessant litigation since 1985 by advocate bar associations against the tribunals over serious questions of their independence from the executive.
- The quality of adjudication has been underwhelming in most cases, the delays have been substantial because the government has struggled to find competent persons willing to accept positions on these tribunals, and litigation has actually become more expensive, as these tribunals added another layer to it.
- The Government of India began the process of rationalisation of tribunals in 2015.
- By the Finance Act, 2017, seven tribunals were abolished or merged based on functional similarity and their total number was reduced to 19 from 26.

Key Issues with the Bill

- The Bill suffers from the same flaws of the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021 ("Ordinance") promulgated by the President in April 2021 which it sought to replace.
- In July 2021, the Supreme Court in the case of Madras Bar Association v. Union of India had struck down the provisions requiring a minimum age for appointment as chairperson or members as 50 years and prescribing the tenure of four years. It held that such conditions are violative of the principles of separation of powers, independence of judiciary, rule of law and Article 14 of the Constitution of India.
- However, under the proviso to Section 3, the minimum age requirement of 50 years still finds a place in the Bill. Similarly, the tenure for the Chairperson and the members of the tribunal remains four years.

- Furthermore, Section 3(7) also sought to undo the judgment of the Apex Court which held the provisions related to the recommendation of two names for each post by the Search-cum-Selection Committee and requiring the decision to be taken by the government preferably within three months.

Constitutional provisions and mandates regarding Tribunals

- **The provision for Tribunals was added by the 42nd Constitutional amendment act which added two new articles to the constitution.**
- Article 323-A: of the constitution which empowers the parliament to provide for the establishment of administrative tribunals for adjudicating the disputes relating to recruitment and conditions of service of a person appointed to public service of centre, states, local bodies, public corporations and other public authority.
- Accordingly, the Parliament has enacted Administrative Tribunals Act,1985 which authorizes parliament to establish Centre and state Administrative tribunals (CAT & SATs).
    1. Central Administrative Tribunal (CAT):
        - It was set up in 1985 with the principal bench at Delhi and additional benches in other states (It now has 17 benches, 15 operating at seats of HC's and 2 in Lucknow and Jaipur.
        - It has original jurisdiction in matters related to recruitment and service of public servants (All India services, central services etc).
        - Its members have a status of High Court judges and are appointed by president.
        - Appeals against the order of CAT lie before the division of High Court after Supreme Court's Chandra Kumar Judgement.
    2. State administrative tribunals (SAT):
        - Central government can establish state administrative tribunals on request of the state according to Administrative tribunals act of 1985
        - SAT's enjoy original jurisdiction in relation to the matters of state government employees.
        - Chairman and members are appointed by President in consultation with the governor.
- Article 323-B: which empowers the parliament and the state legislatures to establish tribunals for adjudication of disputes related to following matters:
    1. Taxation
    2. Foreign exchange, Imports and Exports
    3. Industry and Labour
    4. Land reforms
    5. Ceiling on Urban Property
    6. Elections to parliament and state legislature
    7. Food stuffs
    8. Rent and Tenancy Rights

Issues with tribunalization

1. **Appeal:** Administrative tribunals were originally set up to provide specialized justice delivery and to reduce the burden of caseloads on regular courts. However, appeals from tribunals have inevitably managed to enter the mainstream judicial system.
2. **High Pendency:** Many tribunals also do not have adequate infrastructure to work smoothly and perform the functions originally envisioned leading to high pendency rates thus proving unfruitful to deliver quick justice.
3. **Appointments:** Appointments to tribunals are usually under the control of the executive. Not only does the government identify and appoint the members of the tribunals, but it also determines and makes appropriate staffing hires. This is problematic because often there is a lack of understanding of the staffing requirements in tribunals.
4. There is a **lack of information** available on the functioning of tribunals. Websites are routinely non-existent, unresponsive or not updated.
5. **Accessibility is low** due to scant geographic availability therefore justice becomes expensive and difficult.
6. **Against the principle of separation of powers:** Tribunalisation is seen as encroachment of judicial branch by the government.

LIMITED LIABILITY PARTNERSHIP (AMENDMENT) BILL 2021

Context:

The Rajya Sabha passed the Limited Liability Partnership (Amendment) Bill 2020 which seeks to amend the Limited Liability Partnership Act of 2008.

Relevance:

GS-III: Indian Economy (Growth and Development of Indian Economy, Inclusive Growth), GS-II: Governance (Government Interventions and policies)

Dimensions of the Article:

1. What is Limited Liability Partnership (LLP)?
2. Limited Liability Partnership (Amendment) Bill, 2021
3. What can be changed regarding LLPs in the future?

What is Limited Liability Partnership (LLP)?

- A Limited Liability Partnership (LLP) is a hybrid model of a partnership firm and a company in which some or all partners (depending on the jurisdiction) have limited liabilities.
- In an LLP, each partner is not responsible or liable for another partner's misconduct or negligence.
- The partners in an LLP are liable only to their extent of agreed contribution to the capital. They are not liable to any unauthorised actions of the other partners.
- In a traditional partnership firm, all the partners are liable for any action taken by any partner and the liability is unlimited. However, in an LLP, the liability extent of any partner is determined by the amount of capital that has been invested by him/her.
- LLP is governed by Limited Liability Partnership Act, 2008 and Companies Act while traditional partnership is governed by Indian Partnership Act, 1932.

- An LLP has a separate legal entity and is liable to the full extent of its assets (liability of partners is limited) while a traditional partnership firm does not have any kind of separate legal entity.
- Foreign Nationals can become partners in LLP, whereas in traditional partnership firms, foreign nationals can't become the partner.
- In a partnership firm, there is professional expertise but the risk-taking capacity often gets undermined due to high liabilities on the partners. The LLP provides an alternative solution to it because it combines the benefits of professional expertise and the risk-taking capacity of the partners and gives them the viable options.

Limited Liability Partnership (Amendment) Bill, 2021

- The Limited Liability Partnership (Amendment) Bill 2021 makes amendments to the Limited Liability Partnership (LLP) Act, 2008 to bring an equal playing field for Limited Liability Partnerships (LLPs), compared to large companies which come under the Companies Act, 2013.
- The Bill aims to facilitate the Ease of Doing Business and encourage startups across the country.
- The bill proposes the creation of a class of small LLPs which will be subject to fewer compliances, reduced fee/additional fee, and smaller penalties in the civil defaults – to encourage entrepreneurs.
- The bill seeks to decriminalise 12 of the existing 24 penal provisions, 21 compoundable offences and 3 non-compoundable ones under the LLP Act by omitting those offences which are more appropriate to be dealt with under other laws.
- Offences that relate to minor/ less serious compliance issues, involving predominantly objective determinations, are proposed to be shifted to the In-House Adjudication Mechanism (IAM) framework instead of being treated as criminal offences.
- The threshold contribution for the partners for the LLPs have been enhanced from Rs. 25 lacs to around Rs. 5 crores and the turnover size from 40 lacs to 50 crores.
- The amendment allows the LLPs to issue fully secured Non-Convertible Debentures from investors regulated by SEBI or the RBI – this will facilitate the enhanced capability of raising capital and financing operations of LLPs.
- The accounting standards and auditing standards for LLPs have been introduced to bring standardisation in the procedures as the LLPs were not enjoying the kind of standard accounting systems that their counterpart companies are enjoying under the provisions of the Companies Act, 2013.

What can be changed regarding LLPs in the future?

- Even if its partners qualify for 'angel investors' in their individual capacity, the LLP might not be eligible for it as LLPs have to meet certain criteria to be eligible for an angel investor. Norms can be eased to enable LLPs access to angel investors become easier.
- Currently, no two NRIs can form an LLP in India as one of the partners has to be an Indian resident. Further, the Foreign Direct investment (FDI) in an LLP can only happen through the government route and therefore, the time required to form this partnership is much more. These norms can be eased to support foreign funding for LLPs as well.
- An LLP does not allow to issue Employee Stock Ownership Plan (ESOP). This restriction can be removed as ESOPs are used as a tool to retain the key personnel of the company.

LIMITED LIABILITY PARTNERSHIP (AMENDMENT) BILL 2021

Context:

The Rajya Sabha passed the Limited Liability Partnership (Amendment) Bill 2020 which seeks to amend the Limited Liability Partnership Act of 2008.

Relevance:

GS-III: Indian Economy (Growth and Development of Indian Economy, Inclusive Growth), GS-II: Governance (Government Interventions and policies)

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- An LLP does not allow to issue Employee Stock Ownership Plan (ESOP). This restriction can be removed as ESOPs are used as a tool to retain the key personnel of the company.

COMMISSION FOR AIR QUALITY MANAGEMENT IN NCR BILL

Context:

The Parliament approved a Bill that seeks to set up a commission for air quality management in the National Capital Region and its adjoining areas.

Relevance:

GS-III: Environment and Ecology (Environmental Pollution, Pollution Control Measures, Conservation of Environment and Ecology), GS-II: Governance (Government Policies and Interventions)

Dimensions of the Article:

1. CAQM in National Capital Region and Adjoining Areas Bill, 2021
2. About the Commission for Air Quality Management (CAQM)
3. Powers and Functions of the CAQM
4. Criticisms of the CAQM
5. About the recent changes in Delhi's Air quality

Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021

- The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021 provides for the constitution of a Commission for better co-ordination, research, identification, and resolution of problems related to air quality in the National Capital Region (NCR) and adjoining areas.
- Adjoining areas have been defined as areas in Haryana, Punjab, Rajasthan, and Uttar Pradesh, adjoining the National Capital Territory of Delhi and NCR, where any source of pollution may cause adverse impact on air quality in the NCR.
- Sources of air pollution particularly in the NCR consist of a variety of factors which are beyond the local limits. Therefore, a special focus is required on all sources of air pollution which are associated with different economic sectors, including power, agriculture, transport, industry, residential and construction.
- Since air pollution is not a localised phenomenon, the effect is felt in areas even far away from the source, thus creating the need for regional-level initiatives through inter-State and inter-city coordination in addition to multi-sectorial synchronisation.
- The Bill has taken into consideration the concerns of the farmers following several rounds of negotiations, after they had raised concerns of stiff penalties and possible jail terms for stubble burning.

About the Commission for Air Quality Management (CAQM)

- The Commission for Air Quality Management (CAQM) will be a Statutory body which will have Three sub-committees to assist the commission:
    - Sub-committee on monitoring and identification,
    - Sub-committee on safeguarding and enforcement and
    - Sub-committee on research and development.
- The CAQM will be chaired by a government official of the rank of Secretary or Chief Secretary. The chairperson will hold the post for three years or until s/he attains the age of 70 years.
- The CAQM will also will have members from several Ministries as well as representatives from the stakeholder States and experts from the Central Pollution Control Board (CPCB), Indian Space Research Organisation (ISRO) and Civil Society.
- The erstwhile Environment Pollution (Prevention and Control) Authority, or EPCA had been dissolved to make way for the Commission.
- The Commission will supersede bodies such as the central and state pollution control boards of Delhi, Punjab, Haryana, UP and Rajasthan.

Powers and Functions of the CAQM

The CAQM will:

1. Have the powers to issue directions to these state governments on issues pertaining to air pollution.
2. Entertain complaints as it deems necessary for the purpose of protecting and improving the quality of the air in the NCR and adjoining areas.
3. Lay down parameters for control of air pollution.
4. Be in charge of identifying violators, monitoring factories and industries and any other polluting unit in the region, and will have the powers to shut down such units.
5. Have the powers to overrule directives issued by the state governments in the region, that may be in violation of pollution norms.

Criticisms of the CAQM

- The Commission is set to have a large number of members from the central government, which may not go down well with the states, as the States, on the other hand have much lesser representation and voice.
- States may not be happy with the overarching powers being vested in the Commission. Political differences may also play a part in the functioning of the Commission.
- The Commission is said to take the issue of air pollution out of the purview of the judiciary even as the old laws have not even been implemented completely.

About the recent changes in Delhi's Air quality

- Delhi's air typically worsens in October-November and improves by March-April every year due to weather amongst other reasons.
- Current weather conditions are not unfavourable, unlike in winter. Hence, apart from local emissions, the deterioration in air quality is being attributed to an increase in fire counts, mostly due to burning of wheat crop stubble in northern India.
- Fires were also spotted Lahore, Gujranwala and Hafizabad in Pakistan which can contribute to deterioration of air quality.
- Deteriorating air quality is worrying amid an increasing number of novel coronavirus disease (COVID-19) and deaths. Medical experts have, from time to time, raised concerns about how high pollution levels can worsen the situation and aggravate respiratory conditions of the public.

DEPOSIT INSURANCE & CREDIT GUARANTEE CORPORATION BILL

Context:

The Rajya Sabha passed the Deposit Insurance and Credit Guarantee Corporation (Amendment) Bill amid opposition uproar.

Relevance:

GS-III: Indian Economy (Growth and Development of Indian Economy, Banking), GS-II: Governance (Government Policies and Interventions)

Dimensions of the Article:

1. Deposit Insurance and Credit Guarantee Corporation (DICGC) Bill, 2021
2. Deposit Insurance and Credit Guarantee Corporation (DICGC)
3. How does DICGC manage deposit insurance?

Deposit Insurance and Credit Guarantee Corporation (DICGC) Bill, 2021

The Deposit Insurance and Credit Guarantee Corporation (Amendment) Bill, 2021 proposes three key changes that could vastly improve the working of deposit insurance as it stands today. This was deemed necessary in the wake of failure of banks such as Punjab and Maharashtra Co-operative (PMC) Bank, Yes Bank and Lakshmi Vilas Bank due to low level of insurance against the deposits held by customers in Indian banks.

Key provisions of the DICGC bill, 2021

- The Bill makes changes to the deposit insurance laws of the country according to which up to Rs 5 lakh of funds will be provided to an account holder within 90 days in the event of a bank being put under

moratorium by the RBI. Previously, account holders had to get their insured deposits had to wait for years till the restructuring or liquidation of a distressed lender.

- The deposit insurance premium has also been raised by 20% effective immediately and maximum premium limit by 50%. This premium is paid by the various banks to the DICGC.
- Currently, as premium for insurance cover, banks pay 10 paisa on every Rs 100 worth deposits to the DICGC. This is being raised to 12 paisa on every Rs 100.
- With the bank being put under moratorium, in the first 45 days, DICGC will collect all deposit accounts related information's. Then in the next 45 days, the information will be reviewed and depositors will be repaid within 90 days.

Deposit Insurance and Credit Guarantee Corporation (DICGC)

- Deposit Insurance and Credit Guarantee Corporation (DICGC) is a wholly owned subsidiary of Reserve Bank of India.
- It was established on 15 July 1978 under the Deposit Insurance and Credit Guarantee Corporation Act, 1961. Hence, it is a Statutory body.
- It was established for the purpose of providing insurance of deposits and guaranteeing of credit facilities.
- DICGC insures all bank deposits, such as saving, fixed, current, recurring deposit for up to the limit of Rs. 500,000 of each deposits in a bank.

How does DICGC manage deposit insurance?

- DICGC charges 10 paise per ₹ 100 of deposits held by a bank (which is set to be increased to 12 paise by the 2021 law). The premium paid by the insured banks to the Corporation is paid by the banks and is not to be passed on to depositors.
- DICGC last revised the deposit insurance cover to ₹ 1 lakh on May 1, 1993, raising it from ₹ 30,000 since 1980. The protection cover of deposits in Indian banks through insurance is among the lowest in the world.
- The Damodaran Committee on 'Customer Services in Banks' (2011) had recommended a five-time increase in the cap to ₹5 lakh due to rising income levels and increasing size of individual bank deposits.
- Banks, including regional rural banks, local area banks, foreign banks with branches in India, and cooperative banks, are mandated to take deposit insurance cover with the DICGC.
- The DICGC does not deal directly with depositors.
- The RBI (or the Registrar), on directing that a bank be liquidated, appoints an official liquidator to oversee the winding up process.
- Under the DICGC Act, the liquidator is supposed to hand over a list of all the insured depositors (with their dues) to the DICGC within three months of taking charge.
- The DICGC is supposed to pay these dues within two months of receiving this list.
- In FY19, it took an average 1,425 days for the DICGC to receive and settle the first claims on a de-registered bank.

REPORT ON RIGHTS ABUSE IN J&K AND KASHMIR MILITANCY

Context:

In their latest report, former Supreme Court (SC) judge and former Kashmir interlocutor, who head the Forum for Human Rights in J&K, have warned that "human rights abuses will continue unchecked till J&K remains under a Lieutenant-Governor administration and without an elected government".

Relevance:

GS-II: Polity and Constitution (Centre-State relations), GS-II: Governance (Government Policies & Interventions)

Dimensions of the Article:

1. About the latest report of the Forum for Human Rights in J&K
2. About Kashmir militancy as J&K passes 2 years as UT
3. Jammu & Kashmir Reorganisation Act, 2019

About the latest report of the Forum for Human Rights in J&K

- Most of the rights violations, including arbitrary detentions, prohibition on assembly, remain valid still – even as Jammu and Kashmir completes two years as a Union Territory (UT).
- Close to 1,000 people are still in prison, including minors and elected legislators.
- The report says that the J&K administration added a new vigilantism against government employees, whose social media content is now subject to police scrutiny for 'anti-national activities', potentially leading to dismissal. Eighteen government employees have already been dismissed
- The report also pointed out that the ceasefire agreement between Indian and Pakistani Directors-General of Military Operations (DGMOs) "restricted infiltration by armed groups and raised hopes that a wider peace process might follow".
- Notably, the J&K High Court has shown renewed commitment to the rights to bail and fair and speedy trial, coupled with scrutiny of the possible misuse of draconian legislation, such as the Public Safety Act (PSA) and the Unlawful Activities Prevention Act (UAPA). Nevertheless, the J&K administration continues to oppose bail and stifle dissent on increasingly bizarre grounds.
- The report recommended release of all remaining political detainees and repeal of the PSA and other preventive detention legislation.
- The report called for involvement of local communities in facilitating the return of Kashmiri Pandits.

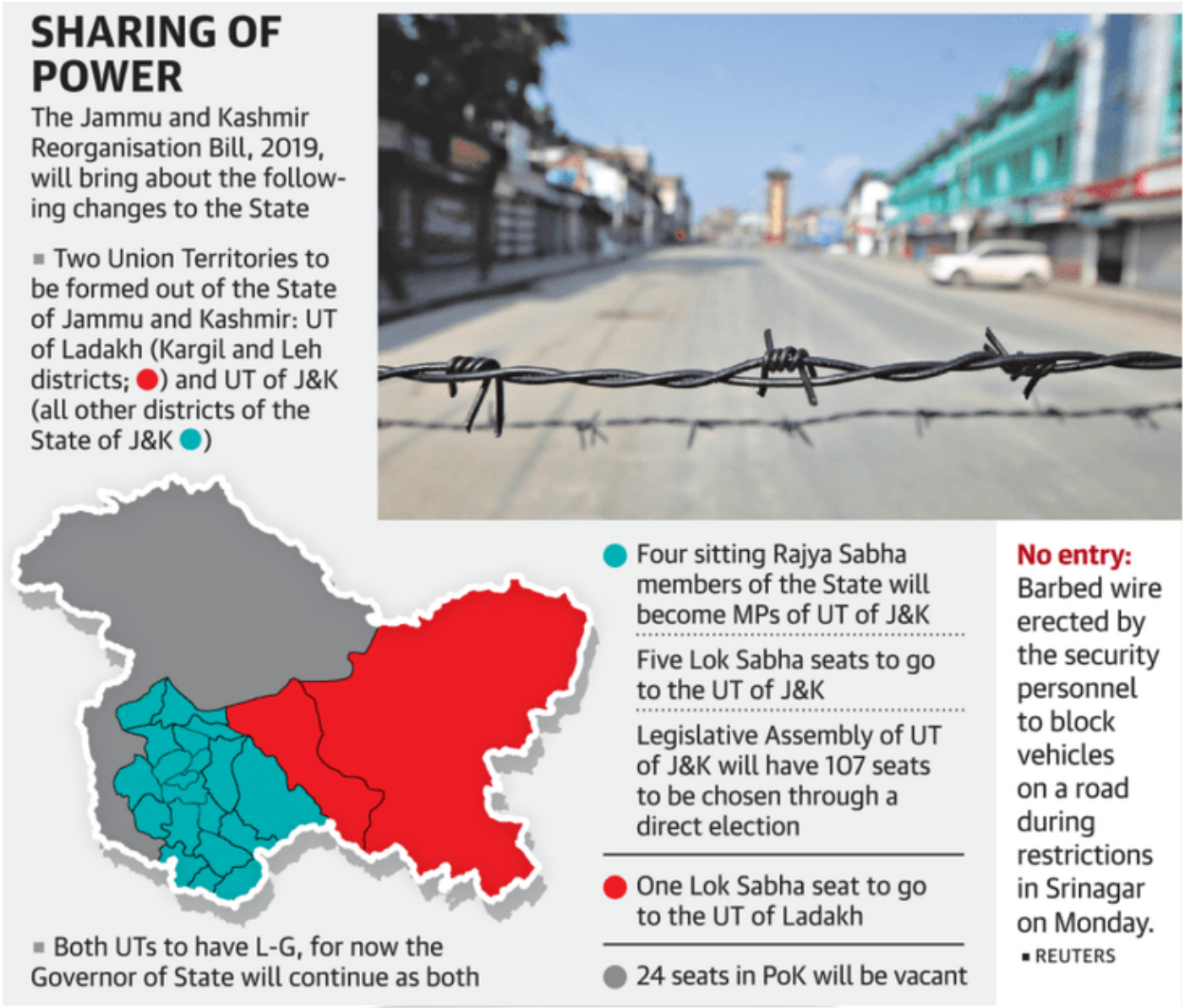
About Kashmir militancy as J&K passes 2 years as UT

- As Jammu and Kashmir completes two years as a Union Territory (UT), militancy remains a major challenge to the security apparatus amid growing fears that the Taliban takeover of Afghanistan is likely to flip the striking capabilities of the militant outfits, especially the Jaish-e-Muhammad (JeM) and the Harkat-ul-Mujahideen (HuM).
- Though more than 60% recruits hail from districts in south Kashmir, there is growing recruitment in capital Srinagar, where frequency of militant attacks saw a major spur in 2021, and in north Kashmir as well.

- In a sustained pressure maintained by the security agencies by launching multiple anti-militancy operations every day, at least 89 militants were killed in J&K so far, including the top brass of most of the militant outfits operating in the Valley.
- However, a fresh list of 10 local militants released by the J&K police again highlighted that local militants continue to command and control the outfits such as the Hizbul Mujahideen, the Lashkar-e-Taiba and the The Resistance Front (TRF) in the Valley.

Jammu & Kashmir Reorganisation Act, 2019

- The Jammu and Kashmir Reorganisation Bill, 2019 was introduced in Rajya Sabha on August 5, 2019 by the Minister of Home Affairs, Mr. Amit Shah.
- The Bill provides for reorganisation of the state of Jammu and Kashmir into the Union Territory of Jammu and Kashmir and Union Territory of Ladakh.
- The Bill reorganises the state of Jammu and Kashmir into: (i) the Union Territory of Jammu and Kashmir with a legislature, and (ii) the Union Territory of Ladakh without a legislature.
- The Union Territory of Ladakh will comprise Kargil and Leh districts, and the Union Territory of Jammu and Kashmir will comprise the remaining territories of the existing state of Jammu and Kashmir.
- The Union Territory of Jammu and Kashmir will be administered by the President, through an administrator appointed by him known as the Lieutenant Governor.
- The Union Territory of Ladakh will be administered by the President, through a Lieutenant Governor appointed by him.
- The High Court of Jammu and Kashmir will be the common High Court for the Union Territories of Ladakh, and Jammu and Kashmir. Further, the Union Territory of Jammu and Kashmir will have an Advocate General to provide legal advice to the government of the Union Territory.
- The Legislative Council of the state of Jammu and Kashmir will be abolished. Upon dissolution, all Bills pending in the Council will lapse.



FUNDS ALLOTTED FOR ONGOING MPLADS PROJECTS LAPSE

Context:

Virtually half of a belated Rs. 2,200 crore allotted for completing ongoing MPLADS projects in 2020-21 simply lapsed.

Relevance:

GS-II: Social Justice and Governance (Central Sector Schemes, Government Policies & Interventions)

Dimensions of the Article:

1. Members of Parliament Local Area Development (MP-LAD)
2. Features of MPLADS scheme
3. Release of Funds under MPLADS
4. About the recent issue regarding lapse of funds

Members of Parliament Local Area Development (MP-LAD)

- Members of Parliament Local Area Development Scheme (MPLADS) is an ongoing Central Sector Scheme which was launched in 1993-94.
- The Scheme enables the Members of Parliament to recommend works for creation of durable community assets based on locally felt needs to be taken up in their constituencies in the area of national priorities namely drinking water, education, public health, sanitation, roads etc.
- Nodal Ministry: The Ministry of Statistics and Programme Implementation has been responsible for the policy formulation, release of funds and prescribing monitoring mechanism for implementation of the Scheme.

Features of MPLADS scheme

The annual MPLADS fund entitlement per MP constituency is Rs. 5 crore.

- MPs are to recommend every year, works costing at least 15 per cent of the MPLADS entitlement for the year for areas inhabited by Scheduled Caste population and 7.5 per cent for areas inhabited by S.T. population.
- In order to encourage trusts and societies for the betterment of tribal people, a ceiling of Rs. 75 lakhs is stipulated for building assets by trusts and societies subject to conditions prescribed in the scheme guidelines.
- Lok Sabha Members can recommend works within their Constituencies and Elected Members of Rajya Sabha can recommend works within the State of Election (with select exceptions).
- Nominated Members of both the Rajya Sabha and Lok Sabha can recommend works anywhere in the country.
- All works to meet locally felt infrastructure and development needs, with an emphasis on creation of durable assets in the constituency are permissible under MPLADS as prescribed in the scheme guidelines.
- Expenditure on specified items of non-durable nature are also permitted as listed in the guidelines.

Release of Funds under MPLADS

- Funds are released in the form of grants in-aid directly to the district authorities.
- The funds released under the scheme are non-lapsable.
- The liability of funds not released in a particular year is carried forward to the subsequent years, subject to eligibility.

Execution of works:

- The MPs have a recommendatory role under the scheme. They recommend their choice of works to the concerned district authorities who implement these works by following the established procedures of the concerned state government.
- The district authority is empowered to examine the eligibility of works sanction funds and select the implementing agencies, prioritise works, supervise overall execution, and monitor the scheme at the ground level.

About the recent issue regarding lapse of funds

- The Finance Ministry granted "barely a week" to the Ministry of Statistics and Programme Implementation (MoSPI) to release the funds because of which Half of the Rs. 2,200 crore allotted for

completing ongoing MPLADS projects in 2020-21 simply lapsed virtually – inviting the ire of the Standing Committee on Finance.

- The resultant funding crunch would have hit several local area development projects under implementation across the country, especially in the five States that went to polls this year as no funds were released for these States and constituencies citing the Model Code of Conduct.
- Spending under the Members of Parliament Local Area Development Scheme (MPLADS) had already halved before the government suspended the scheme for two years in April 2020 and diverted the funds for managing the COVID-19 pandemic.
- On March 2021, an SCF report on the Statistics Ministry's demands for grants pointed out that many MPLADS projects that began earlier were "left unfinished midway despite the sanction letters being issued and funds for the same were withheld", citing the suspension of the scheme.
- The Finance Ministry has also asked the Statistics Ministry to further tighten the scheme's guidelines by September 2021, so that "if a work sanctioned by an MP is not used for five years, it will automatically lapse even if there is a committed liability for the work to be completed". Currently, funds released to district authorities under MPLADS is not lapsable, while funds not released by the government in a particular year are carried forward.