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Monthly Compendium (LEGAL AFFAIRS)

of Current Affairs by **SUCCESS MANTRA** (GTB Nagar)

LEGAL AFFAIRS

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#SECTION 69 OF INFORMATION TECHNOLOGY ACT

- Ministry of Electronics & Information Technology (MeitY) issued orders under **Section 69 (A) of the Information Technology Act, 2000** to take down certain posts from **Twitter (Microblogging Site)**.
- Twitter has moved to Karnataka High Court, claiming that many of the blocking orders are procedurally and substantively deficient under Section 69 (A) of the Act.



What is the Current Issue?

- The Ministry said under Section 69 (A) of the IT Act, the company has “failed to comply with the directions on multiple occasions”.
- Twitter submitted a list of over 80 accounts and tweets that it had blocked based on a request from the government in 2021.
- Twitter claims that **the basis on which multiple accounts and posts have been flagged** by the Ministry are **either “overbroad and arbitrary” or “disproportionate”**.
- According to Twitter, some of the content flagged by the ministry **may pertain to official accounts of political parties, blocking which could be violative of the Right to Free Speech**.

What is Section 69 (A) of the Information Technology Act?

- It **confers on the Central and State governments the power to issue directions** “to intercept, monitor or decrypt any information generated, transmitted, received or stored in any computer resource”.
- The **grounds on which these powers may be exercised are:**
- In the interest of the sovereignty or integrity of India, defence of India, the security of the state.
- Friendly relations with foreign states.
- Public order, or for preventing incitement to the commission of any cognizable offence relating to these.
- For investigating any offence.

What are the other Related Laws?

- In India, the **Information Technology (IT) Act, 2000**, as amended from time to time, governs all activities related to the use of computer resources.
- It **covers all ‘intermediaries’ who play a role in the use of computer resources** and electronic records.
- The role of the intermediaries has been spelt out in separate rules framed for the purpose in 2011- **The Information Technology (Intermediaries Guidelines) Rules, 2011**.

#FOREST CONSERVATION RULES, 2022

- Recently, the **Ministry of Environment, Forest and Climate Change (MoEFCC)** has issued the **Forest (Conservation) Rules, 2022**.
- It is conferred by **Section 4 of the Forest (Conservation) Act, 1980** and in **supersession of the Forest (Conservation) Rules, 2003**.

What are the Provisions of Forest (Conservation) Rules, 2022?

- Formation of Committees:** It constituted an **Advisory Committee**, a **regional empowered committee** at each of the integrated regional offices and a **screening committee** at State/Union Territory (UT) government-level.
- Advisory Committee:** The role of the Advisory Committee is restricted to **advise or recommend with regards to grant of approval** under relevant sections in respect of proposals referred to it and **any matter connected with the conservation of forests** referred to it by the Central government.

- **Project Screening Committee:** The MoEFCC has directed the constitution of a **project screening committee in each state/UT for an initial review of proposals involving diversion of forest land.**
- The five-member committee **will meet at least twice every month** and will advise the state governments on projects in a time bound manner.

What are the other Initiatives for Forest Conservation?

- **Indian Forest Policy, 1952:** It was a simple **extension of colonial forest policy.** However, it became conscious about the need to increase the forest cover to one-third of the total land area.
- At that time maximum annual revenue from forests was the vital national need. The **two World Wars, need for defence, developmental projects such as river valley projects,** industries like pulp, paper and plywood, and communication heavily depended on forest produce for national interest, as a result, **huge areas of forests were cleared to raise revenue for the State.**
- **Forest Conservation Act, 1980:** It stipulated that the central permission is necessary to practice sustainable **agro-forestry in forest areas.** Violation or lack of permit was treated as a **criminal offence.**
- It is targeted to **limit deforestation, conserve biodiversity and save wildlife.** Though this Act provides greater hope towards forest conservation it was not successful in its target.
- **National Forest Policy, 1988:** The ultimate objective of the National Forest policy was **to maintain environmental stability and ecological balance** through conservation of forests as a natural heritage.
- It made a very significant and categorical shift from commercial concerns to **focus on the ecological role of the forests and participatory management.**
- It envisages a **goal of achieving 33% of the geographical area of the country under forest and tree cover.**
- **National Afforestation Programme :**
- It has been implemented by the Ministry of Environment, Forest and Climate Change since 2000 for the afforestation of degraded forest lands.

Forest in India

- According to **India State of Forest Report, 2021,** the **Total Forest and Tree cover is now 7,13,789 square kilometres, 21.71% of the country's geographical area,** an increase from 21.67% in 2019.

Constitutional Provisions:

- Through the **42nd Amendment Act, 1976** Forests and Protection of Wild Animals and Birds were **transferred from State to Concurrent List** along with Education, Weights & Measures and Administration of Justice.
- **Article 48 A** in the **Directive Principles of State policy,** mandates that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.
- **Article 51 A (g)** of the Constitution states that it shall be the **Fundamental Duty** of every citizen to protect and improve the natural environment including forests and Wildlife.

Other Related Acts:

- The **Wildlife Protection Act of 1972,** The **Environment Protection Act of 1986,** and The **Biodiversity Diversity Act of 2002.**
- **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006:**
- It has been enacted to **recognize and vest the forest rights and occupation of forest land in forest-dwelling Scheduled Tribes and other traditional forest dwellers,** who have been residing in such forests for generations.

IMPLEMENTATION OF LABOUR CODES

- Central government is pushing for the implementation of **four labour codes introduced in 2020** (Code of Wage Act in 2019), replacing 29 sets of labour laws.
- **Labour Codes includes 4 versions:** Code of Wages Act 2019, Industrial Relations Code Bill, 2020, Social Security Code Bill, 2020, Occupational Safety, Health and Working Conditions Code Bill, 2020

What do we need to know about Labour Codes?

- **Code of Wages Act 2019:** The bill aims to **transform the old and obsolete labour laws into more accountable and transparent ones** and seeks to pave the way for the introduction of minimum wages and **labour reforms in the country**.
- It regulates the **wages and bonus payments** in all employment areas where any industry, trade, business, or manufacturing is being carried out.
- The bill subsumes the following four labour laws:
 - **The Payment of Wages Act, 1936**
 - **The Minimum Wages Act, 1948**
 - **The Payment of Bonus Act, 1965**
 - **The Equal Remuneration Act, 1976**
- It universalizes the provisions of **minimum wages** and timely payment of wages to all employees irrespective of the sector and wage ceiling and seeks to ensure **"Right to Sustenance"** for every worker and intends to increase the legislative protection of minimum wage.
- It has been ensured in the bill that **employees getting monthly salary shall get the salary by 7th of next month**, those working on a **weekly basis shall get the salary on the last day of the week** and **daily wagers should get it on the same day**.
- **The Central Government is empowered** to fix the floor wages by taking into account the living standards of workers. It may set different floor wages for different geographical areas.
- The minimum wages decided by the central or state governments must be higher than the floor wage.

Industrial Relations Code Bill, 2020:

- **Industrial Employment (Standing Orders) Act, 1946** makes it obligatory for employers of an industrial establishment where **100 or more workers** are employed to **clearly define the conditions of employment and rules of conduct** for workmen, by way of standing orders/services rules and to make them known to the workmen employed.
- The **new provision** for standing order will be applicable for every industrial establishment wherein **300 or more than 300 workers are employed** or were employed on any day of the preceding twelve months.
- It was earlier suggested by the **Standing Committee on Labour** which also suggested that the threshold be increased accordingly in the Code itself and the words **'as may be notified by the Appropriate Government'** be removed because reform of labour laws through the executive route is undesirable and should be avoided to the extent possible.
- After becoming a law, **orders will not be dependent on whims and fancies of executives of state governments**.
- It also introduces new conditions for carrying out a **legal strike**. The time period for arbitration proceedings has been included in the conditions for workers before going on a legal strike as against only the time for conciliation at present.
- No person employed in any industrial establishment shall go on strike **without a 60-day notice** and **during the pendency** of proceedings before a **Tribunal** or a National Industrial Tribunal and **sixty days after the conclusion of such proceedings**.
- At present, a person employed in a **public utility service cannot go on strike** unless they give notice for a strike **within six weeks** before going on strike or **within fourteen days of giving such notice, which the IR Code now proposes to apply for all the industrial establishments**.
- It has also proposed to set up a **re-skilling fund** for training of retrenched workers with contribution from the employer, of an amount equal to 15 days last drawn by the worker.

Social Security Code Bill, 2020:

- It proposes a **National Social Security Board** which shall recommend to the central government for formulating suitable schemes for different sections of **unorganized workers, gig workers and platform workers**.
- Also, aggregators employing **gig workers will have to contribute 1-2% of their annual turnover for social security**, with the total contribution not exceeding 5% of the amount payable by the aggregator to gig and platform workers.

Occupational Safety, Health and Working Conditions Code Bill, 2020:

- It has defined **inter-state migrant workers** as the worker who has come on their own from one state and obtained employment in another state, earning up to Rs. 18,000 a month.
- The proposed definition makes a **distinction from the present definition of only contractual employment**.
- It has dropped the earlier provision for temporary accommodation for workers near the worksites and has proposed a **journey allowance, a lump sum amount of fare to be paid by the employer for to and fro journey of the worker to their native place from the place of their employment**.

#RENUNCIATION OF CITIZENSHIP

- The Ministry of Home Affairs stated that **over 1.6 lakh Indians renounced their Indian citizenship in 2021**.
- The numbers marked a sharp increase in comparison to the 85,256 people who gave up their Indian citizenship in the Covid-hit year of 2020, and a somewhat smaller increase over the **1.44 lakh who surrendered their passports in 2019**.

What is Citizenship?

- **Constitutional Provisions:** Citizenship is listed in the **Union List under the Constitution** and thus is under the **exclusive jurisdiction of Parliament**.
- The Constitution does not define the term 'citizen' but details of various categories of persons who are entitled to citizenship are given in **Part 2 (Articles 5 to 11)**.
- **Acquisition of Indian Citizenship:**
- **The Citizenship Act of 1955 prescribes five ways** of acquiring citizenship, viz, birth, descent, registration, naturalisation and incorporation of territory.
- **Citizenship (Amendment) Act, 2019:** The Act amended the law to **fast-track citizenship for religious minorities**, specifically Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, from Afghanistan, Bangladesh and Pakistan who entered India prior to 2015.
- The requirement for them to stay in India for at least 11 years before applying for Indian citizenship has been reduced to five years.

What are the Ways to Renounce Citizenship in India?

- **Voluntary Renunciation:** If an Indian citizen wishes, who is of full age and capacity, **he can relinquish citizenship of India by his will**.
- When a person relinquishes his citizenship, **every minor child of that person also loses Indian citizenship**. However, when such a child attains the age of 18, he may resume Indian citizenship.
- **By Termination:** The Constitution of India provides **single citizenship**. It means an Indian person **can only be a citizen of one country at a time**. If a person takes the citizenship of another country, **then his**

Indian citizenship ends automatically. However, this provision does not apply when India is busy in war.

- **Deprivation by Government:** The Government of India may terminate the citizenship of an Indian citizen if;
 - The citizen has **disrespected the Constitution.**
 - Has obtained citizenship **by fraud.**
 - **The citizen has unlawfully traded or communicated** with the enemy during a war.
 - Within 5 years of registration or naturalisation, **a citizen has been sentenced to 2 years of imprisonment** in any country.
 - The citizen has been living **outside India for 7 years continuously.**

#NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

- Minister of Law and Justice informed the details of funds allocated by **NALSA (National Legal Services Authority)** to Legal Services Authorities to organise Legal Aid Programmes in India.

Objectives of Legal Services Authorities:

- Provide **free legal aid and advice.**
- Spread **legal awareness.**
- Organise **lok adalats.**
- Promote settlements of disputes through **Alternative Dispute Resolution (ADR)** Mechanisms. Various kinds of ADR mechanisms are Arbitration, Conciliation, Judicial settlement including settlement through Lok Adalat, or Mediation.
- Provide **compensation to victims** of crime.

What are Legal Services Institutions at Various Levels?

- **National Level:** NALSA was constituted under the Legal Services Authorities Act, 1987. The Chief Justice of India is the Patron-in-Chief.
- **State Level:** **State Legal Services Authority.** It is headed by the **Chief Justice of the State High Court** who is its Patron-in-Chief.
- **District Level:** District Legal Services Authority. The District Judge of the District is its ex-officio Chairman.
- **Taluka/Sub-Division Level:** Taluka/ Sub-Divisional Legal Services Committee. It is headed by a senior Civil Judge.
- **High Court:** High Court Legal Services Committee
- **Supreme Court:** Supreme Court Legal Services Committee

What are the Related Initiatives?

- **Legal Service Mobile App:** To enable equitable access to justice, NALSA has launched **Legal Services Mobile App** on Android and iOS versions to **enable easy access to legal aid to common citizens.**
- **DISHA Scheme:**
- Department of Justice (DoJ) has launched comprehensive, holistic, integrated and systemic solution on access to justice at pan India level through a scheme titled "Designing Innovative Solutions for Holistic Access to Justice (DISHA)" being implemented from 2021-26.

What is NALSA?

- The NALSA was **founded in 1995 under the Legal Services Authorities Act of 1987** to monitor and review the effectiveness of legal aid programs and to develop rules and principles for providing legal services under the Act.
- It also **distributes funding and grants to state legal services authorities** and non-profit organisations to help them execute legal aid systems and initiatives.

Constitutional Provisions:

- **Article 39A** of the Constitution of India provides that **State shall secure that the operation of the legal system promotes justice on a basis of equal opportunity**, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disability.
- **Articles 14 and 22(1)** also make it obligatory for the **State to ensure equality before law and a legal system** which promotes justice on a basis of equal opportunity to all.

- All the Access to Justice Programmes have been merged under DISHA scheme and upscaled to all India level.

#SOLID WASTE MANAGEMENT RULES

With **burgeoning population and even faster urbanisation**, there has been an explosion in the generation of **Municipal Solid Waste (MSW)** in Indian cities.



- It is important to note that the engagement of formal waste management system remains low in the cities, primarily due to insufficient funds, low sectoral development and lack of know-how about sustainable waste management businesses.
- Hence, in many developing countries, including **India**, **waste collection and material recycling activities are majorly performed by the informal waste sector.**
- **Informal waste collectors** include individuals, associations or waste-traders who are involved in sorting, sale and purchase of **recyclable materials.**

What do we need to know about Solid Waste?

Solid Waste includes Solid or semi-solid domestic waste, sanitary waste, commercial waste, institutional waste, catering and market waste and other non-residential wastes, street sweepings, silt removed or collected from the surface drains, **horticulture** waste, **agriculture** and dairy waste, treated **biomedical waste** excluding industrial waste, bio-medical waste and **e-waste**, battery waste, radio-active waste etc.

India's Status:

- Urban India alone generates nearly **0.15 million tonnes per day** of Municipal Solid Waste.
- It is estimated that about **62 million tonnes of waste** are generated annually in the country, out of which 5.6 million is **plastic waste**, 0.17 million is biomedical waste.
- In addition, hazardous waste generation is 7.90 million tonnes per annum and 15 lakh tonnes is e-waste.
- The volume of waste is projected to reach 165 million tonnes by 2031 and 436 million tonnes by 2050.

What are the Key Features of Solid Waste Management Rules, 2016?

Responsibilities of Generators have been introduced to segregate waste in to three streams:

- **Wet** (Biodegradable)
- **Dry** (Plastic, Paper, metal, wood, etc.)
- **Domestic hazardous wastes** (diapers, napkins, empty containers of cleaning agents, mosquito repellents, etc.) and **handover segregated wastes to authorized rag-pickers or waste collectors** or local bodies.

Waste Generators will have to pay:

- 'User Fee' to waste collectors.
- 'Spot Fine' for Littering and Non-segregation.

What are Government's Initiatives for Solid Waste Management?

Waste to Wealth Portal: The Waste to Wealth Mission is one of the nine scientific missions of the **Prime Minister's Science, Technology, and Innovation Advisory Council (PMSTIAC)**. It aims to identify, develop, and deploy technologies to treat waste to generate energy, recycle materials, and extract resources of value.

National Water Mission: It was launched with the objective of **conservation of water, minimising wastage and ensuring more equitable distribution** both across and within states through integrated water resources development and management.

Waste to Energy: A **waste-to-energy or energy-from-waste plant** converts municipal and industrial solid waste into electricity and/or heat for industrial processing.

Plastic Waste Management (PWM) Rules, 2016: It mandates the **generators of plastic waste to take steps to minimize generation of plastic waste, prevent littering of plastic waste, and ensure segregated storage of waste** at source among other measures.

#SUPREME COURT & PMLA, 2002

In recent hearing, the Supreme Court upheld the constitutional validity of the **Prevention of Money Laundering Act, 2002**.

The court underlined that the **principle of innocence of the accused/offender is regarded as a human right** but that presumption can be interdicted by a law made by the **Parliament/Legislature**.



What has the Supreme Court said in the Ruling?

- **Enforcement Case Information Report (ECIR):** Enforcement Case Information Report (ECIR) cannot be equated with an **FIR**. Supplying an ECIR in every case to the person concerned is **not mandatory** and **“it is enough if the Enforcement Directorate (ED), at the time of arrest, discloses the grounds of such arrest”**.
- The ECIR is an **internal document of the ED** and the fact that FIR in respect of scheduled offence has not been recorded, does not come in the way of ED authorities to commence inquiry/investigation.

Section 3 of PMLA Act:

- **Section 3 of PMLA Act 2002** has a wider reach and captures that offence of **money laundering** is an **independent offence** regarding the process or activity connected with **the proceeds of crime which had been derived or obtained as a result of criminal activity** relating to or in relation to a scheduled offence.
- The ruling also made it clear that: Offence under Section 3 **“is dependent on illegal gain of property as a result of criminal activity relating to a scheduled offence”**.
- The Authorities under the 2002 Act **cannot prosecute any person on notional basis or on the assumption** that a scheduled offence has been committed, unless it is so registered with the jurisdictional police and pending enquiry including by way of criminal complaint before the competent forum.

Enforcement Directorate:

The bench upheld **the ED's power under Section 5 of the Act** (order provisional attachment of any proceeds of crime).

The Court stated that **Section 5 provides for a balancing arrangement** to secure the interests of the person and also ensures that the proceeds of crime remain available to be dealt with in the manner provided by the 2002 Act.

It rejected the argument that ED authorities are police officers and, hence, a statement recorded by them under Section 50 of the Act would be hit by **Article 20(3) of the Constitution** which says **no person accused of an offence shall be compelled to be a witness against himself**.

What do we know about the Prevention of Money Laundering Act, 2002?

It is a **criminal law** enacted to **prevent money laundering** and to **provide for confiscation of property** derived from, or involved in, money-laundering and related matters.

It forms the **core of the legal framework** put in place by India to combat **Money Laundering**.

The provisions of this act are applicable to all financial institutions, banks (Including **RBI**), **mutual funds, insurance companies**, and their financial intermediaries.

PMLA (Amendment) Act, 2012: Adds the concept of '**reporting entity**' which would include a **banking company, financial institution, intermediary etc.**

- PMLA, 2002 levied a **fine up to Rs 5 lakh**, but the **amendment act has removed this upper limit**.
- It has provided for **provisional attachment and confiscation of property** of any person involved in such activities.

The Prevention of Money Laundering Act, 2002 (PMLA):

ED has been given the responsibility to enforce the provisions of the PMLA by conducting investigation to trace the assets derived from proceeds of crime, to provisionally attach the property and to ensure prosecution of the offenders and confiscation of the property by the Special court.

- **The Foreign Exchange Management Act, 1999 (FEMA):** ED has been given the responsibility to **conduct investigation into suspected contraventions of foreign exchange laws and regulations**, to adjudicate and impose penalties on those adjudged to have contravened the law.
- **The Fugitive Economic Offenders Act, 2018 (FEOA):** It is a law whereby the **Directorate is mandated to attach the properties of the fugitive economic offenders who have escaped from India warranting arrest and provide for the confiscation of their properties to the Central Government**.
- **Sponsoring agency under COFEPOSA:** Under the **Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA)**, Directorate is empowered to **sponsor cases of preventive detention with regard to contraventions of FEMA**.

#RIGHT TO HEALTH BILL

- Recently, there was an intense discussion on a **Private Member's Bill — the Right to Health Bill in Rajya Sabha**.
- The goal is to attain the highest possible level of health and well-being for all at all ages, **through a preventive and promotive health care orientation in all developmental policies**.
- The Bill seeks to make health a fundamental right to all citizens and ensure equitable access and maintenance of a standard of physical and mental health conducive to living a life in dignity.



What do we know about Right to Health?

- **About:** The **Right to health**, as with other rights, includes both **freedoms and entitlements**:
- **Freedoms** include the right to **control one's health and body** (for example, sexual and **reproductive rights**) and to be free from interference (for example, **free from torture and non-consensual medical treatment and experimentation**).
- **Entitlements** include the right to a **system of health protection** that gives everyone an equal opportunity to enjoy the highest attainable level of health.

Related Provisions in India:

- **International Conventions:** India is a signatory of the Article 25 of the **Universal Declaration of Human Rights (1948)** by the **United Nations** that grants the right to a standard of living adequate for the health and well-being to humans including food, clothing, housing and medical care and necessary social services.

- **Fundamental Rights: Article 21** of the Constitution of India guarantees a fundamental right to life & personal liberty.
- The right to health is inherent to a life with dignity.
- **Directive Principles of State Policy (DPSP):** Articles 38, 39, 42, 43, & 47 (DPSP) put the obligation on the state in order to ensure the effective realization of the right to health.
- **Judicial Pronouncements:** The Supreme Court in *Paschim Bangal Khet Mazdoor Samity case (1996)* held that in a welfare state, the primary duty of the government is to **secure the welfare of the people** and moreover it is the obligation of the government to provide **adequate medical facilities for its people**.
- Also, in its landmark judgment in *Parmanand Katara Vs Union Of India (1989)*, Supreme Court had ruled that **every doctor whether at a government hospital or otherwise has the professional obligation** to extend his services with due expertise for protecting life.

#WHAT IS NATIONAL INVESTIGATION AGENCY?

- Recently, the Union Home Ministry handed over the probe into the barbaric killing of a pharmacist at Amravati in Maharashtra to the **National Investigation Agency (NIA)**.

What is the National Investigation Agency (NIA)?

- The **NIA** is the **Central Counter-Terrorism Law Enforcement Agency of India** mandated to investigate all the **offences affecting the sovereignty, security and integrity of India**. It includes:
- Friendly relations with foreign states.
- Against atomic and nuclear facilities.



- **Smuggling of arms, drugs and fake Indian currency** and infiltration from across the borders.
- The offences under the **statutory laws enacted to implement international treaties, agreements, conventions and resolutions of the United Nations**, its agencies and other international organizations.
- It was **constituted under the National Investigation Agency (NIA) Act, 2008**.
- The agency is empowered to deal with the investigation of terror related crimes across states **without special permission from the states** under **written proclamation from the Ministry of Home Affairs**.
- **Headquarters:** New Delhi

Origin:

- In the **wake of the 26/11 Mumbai terror attack in November 2008**, which shocked the entire world, the

then **United Progressive Alliance government** decided to establish the NIA.

- In **December 2008**, former **Union Home Minister P. Chidambaram** introduced the **National Investigation Agency Bill**.
- The agency came into existence on **31st December 2008**, and started its functioning in **2009**. **Till date, the NIA has registered 447 cases.**

What are Scheduled Offences?

- The schedule to the Act specifies a list of offences which are to be investigated and prosecuted by the NIA.
- The list includes
- **Explosive Substances Act**
- **Atomic Energy Act**
- **Unlawful Activities (Prevention) Act**
- **Anti-Hijacking Act**
- **Suppression of Unlawful Acts against Safety of Civil Aviation Act**
- **SAARC Convention (Suppression of Terrorism) Act**
- **Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act**
- **Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act**
- **Any other relevant offences under the Indian Penal Code, Arms Act and the Information Technology Act.**
- **Narcotic Drugs and Psychotropic Substances Act**

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#FOREIGN CONTRIBUTION (REGULATION) ACT (FCRA)

- Recently, the Ministry of Home Affairs amended certain provisions of the **Foreign Contribution (Regulation) Act (FCRA)**.
- The Ministry had made the **FCRA rules tougher in November 2020**, making it clear that **NGOs (Non-Government Organizations)** which may not be directly linked to a political party but engage in political action like bandhs, strike or road blockades will **be considered of political nature if they participate in active politics or party politics**. According to the law, all NGOs receiving funds have to register under the FCRA.
- The move comes after the government enhanced the **import duty on gold import from 7.5 % to 12.5 % in a bid to discourage import of gold** that leads to increase in trade deficit and puts pressure on the currency and forex reserves. An increase in import duty on gold will lead to increase in cost of import and **discourage its import and consumption**.



What is the FCRA?

- The FCRA was enacted **during the Emergency in 1976** in an atmosphere of apprehension that foreign powers were interfering in India's affairs by pumping in funds through independent organisations.
- These **concerns had been expressed in Parliament as early as in 1969**.
- The law sought **to regulate foreign donations** to individuals and associations so that they functioned **"in a manner consistent with the values of a sovereign democratic republic"**.

What are the Key Changes?

- It allows Indians to receive up to Rs 10 lakh annually from their relatives abroad under FCRA.
- The limit earlier was Rs 1 lakh.
- If the amount exceeds, the **individuals will now have 90 days to inform the government instead of 30 days earlier**.
- It has given individuals and organisations or NGOs 45 days for the **application of obtaining 'registration' or 'prior permission'** under the FCRA to receive funds.
- Earlier it was 30 days.
- Organisations receiving foreign funds **will not be able to use more than 20 % of such funds for administrative purposes**.
- This limit was 50 % before 2020.
- Made five more offences under the **FCRA "compoundable"**, making 12, instead of directly prosecuting the organisations or individuals.
- Earlier, only **seven offences under the FCRA were compoundable**.

What are Compoundable Offences?

- Compoundable offences are those offences where, the **complainant (one who has filed the case, i.e., the victim), enter into a compromise, and agrees to have the charges dropped** against the accused. However, such a compromise should be a "Bonafide," and not for any consideration to which the complainant is not entitled to.
- The FCRA violations which have become compoundable now include **failure to intimate about receipt of foreign funds, opening of bank accounts, failure to place information** on website, etc.

#EXTENSION OF OBC SUB-CATEGORIZATION

- Recently, the Union Cabinet gave the 13th **extension to the Justice Rohini Commission**, to examine **sub-categorization of Other Backward Classes (OBCs)** and submit its report by 31st January 2023.
- The initial deadline to submit the commission's report was 12 weeks — by 2nd January, 2018.



What are the Key Highlights?

- **Commission:** The commission was **set up on 2nd October, 2017 under Article 340 of the Constitution.**
- It was tasked with sub-categorisation of the Other Backward Classes (OBCs) and equitable distribution of benefits reserved for them.
- In 2015, the **National Commission for Backward Classes (NCBC)** had recommended that OBCs should be categorised into **extremely backward classes, more backward classes and backward classes.**
- NCBC has the **authority to examine complaints and welfare measures** regarding socially and educationally backward classes.

Commission's Terms of References:

- To **examine the uneven distribution of reservation benefits** among different castes in the central OBC list.
- To **work out the mechanism, criteria, norms and parameters in a scientific approach** for sub-categorisation within such OBCs.
- To **study and recommend correction of any repetitions, ambiguities, inconsistencies and errors of spelling or transcription.**
- It has met representatives of state governments, state backward classes commissions, community associations etc. apart from **obtaining caste-wise data of OBCs** in higher educational institutions and recruits in central departments, public sector banks and financial institutions.
- In 2021, the commission proposed to divide OBCs into four subcategories numbered 1, 2, 3 and 4 and split the 27% into 2, 6, 9 and 10%, respectively.
- It also recommended complete digitisation of all OBC records and a standardised system of issuing OBC certificates.

How has the status of OBC reservation evolved over time?

- The **Kalelkar Commission, set up in 1953**, was the **first to identify backward classes other than the Scheduled Castes (SCs) and Scheduled Tribes (STs)** at the national level.
- The **Mandal Commission Report, 1980** estimated the **OBC population at 52% and classified 1,257 communities** as backward.
- It recommended increasing the existing quotas, which were only for SC/ST, from 22.5% to 49.5% to include the OBCs.
- **The central government reserved 27% of seats in union civil posts and services for OBCs [Article 16(4)].** The quotas were subsequently enforced in central government educational institutions [Article 15 (4)].
- In 2008, the **Supreme Court** directed the central government to **exclude the creamy layer (advanced sections) among the OBCs.**
- The **102nd Constitution Amendment Act, 2018** provided constitutional status to the National Commission for Backward Classes (NCBC), which was previously a statutory body under the Ministry of Social Justice and Empowerment.

#CONTROVERSY OVER ELECTORAL SYMBOL

- Recently, a political party has approached the Election Commission of India (ECI) to stake claim on the Party Symbol.

What is an Election Symbol?

- An electoral or election symbol is a **standardized symbol allocated to a political party**.
- They are used by the parties during their campaigning and are shown on **Electronic Voting Machines (EVMs)**, where the voter chooses the symbol and votes for the associated party.
- They were introduced to **facilitate voting by illiterate people**, who can't read the name of the party while casting their votes.
- In the 1960s, it was proposed that the regulation, reservation and allotment of electoral symbols should be done through a law of Parliament, i.e. Symbol Order.
- In a response to this proposal, the ECI stated that the recognition of political parties is supervised by the provisions of **Election Symbols (Reservation and Allotment) Order, 1968** and so will the allotment of symbols.

What are the EC's powers in such Disputes?

- The **Election Symbols (Reservation and Allotment) Order, 1968** empowers the EC to recognize political parties and allot symbols.
- Under **Paragraph 15** of the Order, it can **decide disputes among rival groups or sections of a recognised political party staking claim** to its name and symbol.
- On disputes among rival groups, the **Symbols Order**, states that the **EC is empowered to take decision after considering all the available facts and circumstances of the case** that one rival section or group or none of such rival sections or groups is that recognized political party.
- The **decision of the Commission shall be binding on all** such rival sections/groups.
- This applies to disputes between recognized national and state parties.
- For splits in **registered but unrecognized parties**, the EC usually **advises the warring factions to resolve their differences internally** or to approach the court.

#WHAT IS RIGHT TO REPAIR?

- Recently, the **Department of Consumer Affairs** announced that it has set up a **committee** chaired by **Nidhi Khare**, Additional Secretary to develop a comprehensive framework on 'Right to Repair'.

What do we need to know about Right to Repair?

- The **Right to Repair** refers to government legislation that is intended to allow consumers the **ability to repair and modify their own consumer electronic devices**, where otherwise the manufacturer of such devices require the consumer to use only their offered services.
- When customers buy a product, it is inherent that they must **own it completely**, for which the consumers should be able to **repair and modify the product with ease and at reasonable cost**, without being captive to the whims of manufacturers for repairs.
- The idea originally originated from the USA where the **Motor Vehicle Owners' Right to Repair Act 2012**, required the manufacturers to provide the necessary documents and information to allow anyone to repair their vehicles.



Proposed Framework:

- Under this regulatory framework, it would be **mandatory** for manufacturers to **share their product details with customers** so that they can either repair them by self or by third parties, rather than depending on original manufacturers.
- The law also aims to help **harmonise the trade between the Original Equipment Manufacturers (OEMs) and third-party buyers and sellers**, thus also creating new jobs.
- **Global Status:**
- The right to repair has been recognised in many countries across the globe, including the **US, UK and European Union**.
- In the US, the **Federal Trade Commission** has directed manufacturers to **remedy unfair anti-competitive practices** and asked them to make sure that consumers can make repairs, either themselves or by a third-party agency.

#ABORTION LAW IN INDIA

Recently, the **Supreme Court of India** allowed an **unmarried woman** to end her pregnancy at 24 weeks, after the Delhi High Court refused to allow it, citing the provisions of the **Medical Termination of Pregnancy (MTP) Act**.

What was Delhi High Court's Position?

- It taken the view that she was unmarried and since the Medical Termination of Pregnancy Act allowed only married women to terminate the pregnancy after 20 weeks, she would not be eligible to get an abortion,
- It mentioned **Rule 3B of the Medical Termination of Pregnancy Rules, 2003**, as it **speaks of change in marital status of woman, as the woman was in a live-in relationship and was not married**.



What was Supreme Court's Ruling?

- It took an expansive view of the issue and interpreted MTP Act 2021, as **the word partner instead of husband**, exhibiting the intention of the **law of the land to not confine it to only marital relationships**.
- It also said that the petitioner **cannot be denied the benefit of the law, on the ground that she was unmarried**, and that doing so would be contrary to the **'object and spirit' of the legislation**.
- Further, the bench directed the **director of the All-India Institute of Medical Sciences (AIIMS) to set up a medical board** of two doctors to examine the woman (as per the provisions of the MTP Act) to determine if it was safe and not a risk to the life of the mother to terminate the pregnancy.
- If it is their opinion that it is safe to do so, then AIIMS can conduct the procedure on her.

What is India's Abortion Law?

Historical Perspective:

- Until the 1960s, **abortion was illegal in India** and a woman could face three years of imprisonment and/or a fine under **Section 312 of the Indian Penal Code (IPC)**.
- It was in the mid-1960s that the government set up the **Shantilal Shah Committee** and asked the group, headed by **Dr Shantilal Shah**, to look into the matter of abortions and decide if India needed a law for the same.
- Based on the report of the Shantilal Shah Committee, a **medical termination bill** was introduced in Lok Sabha and Rajya Sabha and was passed by Parliament in August 1971.
- The **Medical Termination of Pregnancy (MTP) Act, 1971** came into force on 1st of April 1972 and applied to all of India except the state of Jammu and Kashmir.

- Also, **Section 312** of the Indian Penal Code, 1860, **criminalises voluntarily “causing miscarriage”** even when the miscarriage is with the pregnant woman’s consent, except when the miscarriage is caused to save the woman’s life.
- This means that the woman herself, or anyone else including a medical practitioner, could be prosecuted for an abortion.

Medical Termination of Pregnancy (MTP) Act, 1971 act allowed pregnancy termination by a medical practitioner in two stages:

- A single **doctor's opinion was necessary for abortions up to 12 weeks after conception.**
- For pregnancies **between 12 to 20 weeks old, the opinion of two doctors** was required to determine if the continuance of the pregnancy would **involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health** or if there is a **substantial risk** that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously “handicapped” before agreeing to terminate the woman’s pregnancy.

Recent Amendments:

In **2021, Parliament altered the law** to allow for abortions based on the **advice of one doctor for pregnancies up to 20 weeks.**

The modified law needs the **opinion of two doctors for pregnancies between 20 and 24 weeks.**

Further, **for pregnancies between 20 and 24 weeks, rules specified seven categories of women who would be eligible for seeking termination under section 3B of rules prescribed under the MTP Act,**

- Survivors of sexual assault or rape or incest,
- Minors,
- Change of marital status during the ongoing pregnancy (widowhood and divorce),
- Women with physical disabilities [major disability as per criteria laid down under the Rights of Persons with Disabilities Act, 2016]
- Mentally ill women including mental retardation,
- The foetal malformation that has a substantial risk of being incompatible with life or if the child is born it may suffer from such physical or mental abnormalities to be seriously handicapped, and
- Women with pregnancy in humanitarian settings or disasters or emergencies may be declared by the Government.

#WHAT IS FEMA & PMLA?

The Directorate of Enforcement (ED) has registered **14,143 cases under FEMA and PMLA between 2019-20 and 2021-22** as compared to 4,913 cases in 2014-15 to 2016-17.

What is Foreign Exchange Management Act, 1999?

- The legal framework for the **administration of foreign exchange transactions** in India is provided by the **Foreign Exchange Management Act, 1999.**
- Under the FEMA, which came into force with effect from 1st June 2000, **all transactions involving foreign exchange have been classified either as capital or current account transactions.**

Current Account Transactions:

- All transactions undertaken by a **resident** that do not alter his / her assets or liabilities, including contingent liabilities, outside India are current account transactions. payment in connection with **foreign trade, expenses in connection with foreign travel, education etc.**



What is the Prevention of Money Laundering Act, 2002?

- It forms the **core of the legal framework** put in place by India to combat **Money Laundering**.
- The provisions of this act are applicable to all financial institutions, banks (Including RBI), mutual funds, insurance companies, and their financial intermediaries.
- PMLA, 2002 levied a **fine up to Rs 5 lakh**, but the **amendment act has removed this upper limit**.
- It has provided for **provisional attachment and confiscation of property** of any person involved in such activities.

#WHAT IS MEDIA TRIAL?

Recently, the **(CJI)** said that the Media is Running agenda-driven debates and **Kangaroo Courts**, which is not **healthy for democracy**.

What is a Kangaroo Court?

- The phrase "Kangaroo Court" is used against a **judicial system where the judgement against the accused is usually predetermined**.
- It is a **self-appointed or mock court set up without much premeditation** for the purpose of delivering



- judgement arrived at in advance, usually in which the **fate of a disloyal person is decided**.
- This expression may have originated in Australia but it was first recorded in the US during the California Gold Rush of 1849.
 - The Kangaroo Courts **were common during the Stalin era in the Soviet Union**, famous as the “Moscow Trails” of the Soviet Great Purge.

What is Trial by Media?

Trial by media is a phrase popular in the **late 20th century** and early 21st century to describe **the impact of television and newspaper coverage on a person's reputation by creating a widespread perception of guilt or innocence before, or after, a verdict in a court of law**. In recent times there have been **numerous instances in which the media has conducted the trial of an accused and has passed the verdict** even before the court passes its judgement.

Constitutionality:

- Though the word media trial is not directly defined anywhere. But indirectly, **this power is being given to the media under Article 19** of the Constitution of India.
- **Article 19 of the Constitution** of India **provides freedom of speech to each and every person**.

How is the Media Regulated in India?

The body that regulates and governs the media and entertainment sector in India is **enshrined in the Cable Networks Act, 1995 and the Prasar Bharti Act, 1990**.

These are regulated by the Ministry of Information and Broadcasting and Prasar Bharti.

There are **four bodies in India for media regulation**.

Press Council of India: Its mandate is to preserve the freedom of the press and to maintain and improve the standards of newspapers and news agencies in India.

News Broadcasting Standards Authority: It is an Industry Body created by the News Broadcasters Association (NBA).

Broadcasting Content Complaints Council: This is to deal with complaints against entertainment and general segment television programmes.

#PUSH FOR REFORMS IN BAIL LAW

- Recently, the **Supreme Court** underlined that **“there is a pressing need”** for reform in the law related to bail and called on the government to **consider framing a special legislation on the lines of the law in the United Kingdom.**

What is the Ruling About?

- A **two-judge Bench** issued certain clarifications to an **older judgment delivered in July 2021 on bail reform** (Satender Kumar Antil vs CBI).
- The ruling is essentially a **reiteration of several crucial principles of criminal procedure.**
- Referring to the state of jails in the country, where over **two-thirds lodged are undertrials**, the Supreme Court underlined that arrest is a draconian measure that needs to be used sparingly.
- Theoretically, the court also linked the idea of indiscriminate arrests to **magistrates ignoring the rule of “bail, not jail” to a colonial mindset.**
- The Code of Criminal Procedure (CrPC)** was first drafted in **1882** and continues to be in use with amendments from time to time.

What is India's Law on Bail?

- The CrPC does not define the word bail** but only categories offences under the Indian Penal Code as **‘bailable’ and ‘non-bailable’.**
- The CrPC empowers **magistrates to grant bail for bailable offences as a matter of right.**
- This would involve release on furnishing a bail bond, without or without security.
- In case of Non-bailable offences, a **magistrate would determine if the accused is fit to be released on bail.**
- Non-bailable offences are **cognisable**, which enables the police officer to arrest without a warrant.
- Section 436 of the Code of Criminal Procedure, 1973**, lays down that a person accused of a **bailable offence under I.P.C. can be granted bail.** On the other hand, **Section 437 of the Code of Criminal Procedure, 1973** lays down that the accused **does not have the right to bail in non-bailable offences.** It is the discretion of the court to grant bail in case of non-bailable offences.

What is Bail Law in the United Kingdom?

- The Bail Act of the United Kingdom, 1976**, prescribes the procedure for granting bail.
- A key feature is that one of the aims of the legislation is **“reducing the size of the inmate population”.**
- The law also has provisions for **ensuring legal aid for defendants.**
- The Act recognises a **“general right”** to be granted bail.
- Its **Section 4(1)** raises the presumption of bail by stating that the law applies to a person who shall be granted bail except as provided in **Schedule 1 to the Act.**

What Protection does the Constitution provide against Indiscriminate Arrest?

- Article 20:** Article 20 provides Protection against indiscriminate arrest by stating that “No person shall be convicted of any offence except for violation of the law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.”
- Article 21:** Article 21 provides Protection of Life and Personal Liberty. Detention of an individual infringes the Right to Life and Liberty guaranteed under Article 21 of Constitution of India.
- Article 22:** Article 22 provides Protection Against Arrest and Detention.
- The first part of Article 22 deals with the ordinary law and includes:
 - Right to be informed of the grounds of arrest.
 - Right to consult and be defended by a legal practitioner.
 - Right to be produced before a magistrate within 24 hours, excluding the journey time.
 - Right to be released after 24 hours unless the magistrate authorises further detention.

- For rejecting bail, the **prosecution must show that grounds exist** for believing the defendant on bail would not surrender to custody, would commit an offence while on bail, or would interfere with witnesses or otherwise obstruct the course of justice; unless the defendant must be detained for his own welfare or protection; or in other circumstances.

How have the Supreme Court rules on Reforms?

- Separate Law for Bail: The court underlined that the CrPC, **despite amendments since Independence**, largely retains its original structure as drafted by a **colonial power** over its subjects.
- The court made this point to signal that despite its rulings, structurally, the **Code does not account for arrest as a fundamental liberty issue in itself**.
- It also highlighted that **magistrates do not necessarily exercise their discretionary powers uniformly**.
- **Uniformity and certainty in the decisions of the court are the foundations of judicial dispensation**.
- Persons accused with the same offense shall never be treated differently by the same court different courts.
- Such an action would be a grave affront to **Articles 14 and 15** of the Constitution of India.
- The court advocates for framing of a separate law that deals with the grant of bail.
- **Legal Framework for Criminal Jurisprudence in India**
- **The Indian Penal Code (IPC)** is the official criminal code of India drafted in 1860 on the recommendations of the first law commission of India established in 1834 under the Charter Act of 1833 under the Chairmanship of Lord Thomas Babington Macaulay.
- The Code of Criminal Procedure (CrPC) is the main legislation on procedure for administration of substantive criminal law in India. It was enacted in 1973 and came into force on 1st April 1974.

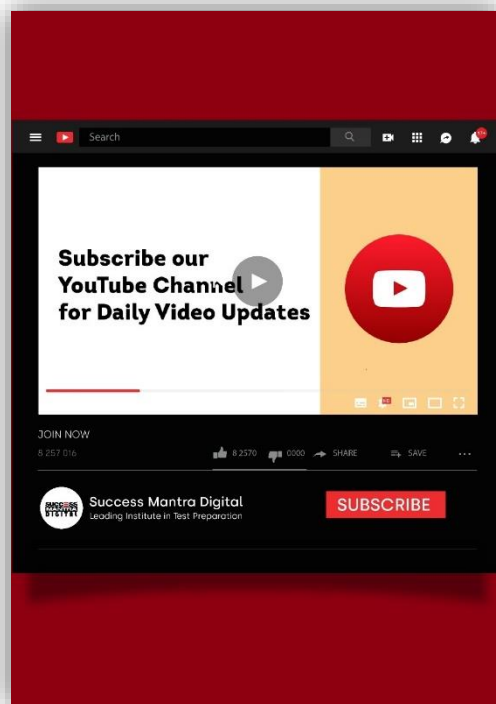
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