



pravahini

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

LEGAL AFFAIRS

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LEGAL AFFAIRS

#NARCOTIC DRUGS & PSYCHOTROPIC SUBSTANCES, 1985

Recently, Karnataka High Court said that **Bhang** is nowhere referred to as a prohibited drink or prohibited drug as per **Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985**.

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

Earlier, Thailand has **legalized cultivating and possessing Marijuana** but recreational use (Such as smoking) is still banned.

What is Bhang?

- Bhang is the **edible preparation made from the leaves of the cannabis plant**, often incorporated into drinks such as thandai and lassi, along with various foods.
- Bhang has been consumed in the **Indian subcontinent for centuries**, and is frequently consumed during the **festivals of Holi and Mahashivratri**.
- **Law:** The **NDPS Act** is the main legislation, enacted in 1985, that deals with **drugs and their trafficking**.

What are the Provisions of the NDPS Act?

- **Defines Cannabis as a Narcotic Drug:** The NDPS Act defines cannabis (hemp) as a narcotic drug **based on the parts of the plant that come under its purview**. The Act lists these parts as:
- **Charas:** The separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as **hashish oil or liquid hashish**.
- **Ganja:** The flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they are known or designated. **Any mixture**, with or without any neutral material, of any of the above forms of cannabis or any drink prepared therefrom.
- The Act, in its definition, **excludes seeds and leaves “when not accompanied by the tops”**.
- **Bhang is not mentioned** in the NDPS Act.
- **Punishment:** **Section 20** of the NDPS Act lays out the punishment for the production, manufacture, sale, purchase, import and inter-state export of cannabis, as defined in the Act. The prescribed punishment is based on the amount of drugs seized. It also provides for **death penalty** in some cases where a person is a **repeat offender**.

What is the State of Crime under NDPS Act?

- **Punjab topped** the list of crime rate as per the **National Crime Records Bureau (NCRB)** recent data for 2021.
- Punjab recorded 32.8% crime rate in 2021, which was the **highest in the country**.
- **Himachal Pradesh** ended second, notching a crime rate of 20.8% followed by **Arunachal Pradesh that reported NDPS Act crime rate of 17.2%**, followed by Kerala (16%).
- The lowest crime rate under NDPS Act in 2021 was reported from **UT Dadar and Nagar Haveli and Daman and Diu (0.5%)**, followed by the states of Gujarat (0.7%) and Bihar (1.2%).

What are the Initiatives to Tackle Drug Addiction?

- The **Narco-Coordination Centre (NCORD)** was constituted in 2016 and the scheme of “Financial Assistance to States for Narcotics Control” was revived.
- **Seizure Information Management System** will create a complete online database of drug offences and offenders.
- **National Drug Abuse Survey** to measure trends of drug abuse in India through the Ministry of Social Justice & Empowerment with the help of National Drug Dependence Treatment Centre of AIIMS.
- Project Sunrise: It was launched by the Ministry of Health and Family Welfare in 2016, to tackle the **rising HIV prevalence** in north-eastern states in India, especially among people injecting drugs.
- ‘**Nasha Mukht Bharat**’, or **Drug-Free India Campaign**

#MUSLIM PERSONAL LAW CASE

- Several petitions have been listed in the **Supreme Court** challenging the constitutional validity of the practice of polygamy and Nikah Halala allowed by Muslim Personal Law.
- A five-judge Constitution Bench has issued notices to the National Human Rights Commission (NHRC), the **National Commission of Women (NCW)** and the **National Commission of Minorities**.
- Earlier, the SC had **stated the practice of divorce in Muslims through 'Talaq-e-Hasan' is not similar to triple talaq** and the women also have an option of 'Khula'.



What do we Know about Muslim Personal Law on Marriage?

- According to Sharia or the Muslim personal law, **men are allowed to practice polygamy** that is, they can have more than one wife at the same time, up to a total of four.
- '**Nikah halala**' is a process in which a **Muslim woman has to marry another person** and get divorced from him before being allowed to marry her divorcee husband again.
- A Muslim man can divorce his wife by uttering Talaq once for three months. This practice is called **Talaq-e-Hasan**.
- "**Triple talaq**" allows a husband to divorce his wife by repeating the word "talaq" (divorce) three times in any form, including email or text message.
- In Islam, talaq and khula are two terms for divorce for men and women respectively. A man can part ways through 'talaq' while a woman can separate with her husband through 'Khula'.

In what ways was Muslim Law Applied in India?

- The **Muslim Personal Law (Shariat) Application Act was passed in 1937** with the aim to formulate an Islamic law code for Indian Muslims.
- The British who were at this point in time governing India, were trying to ensure that Indians were ruled according to their own cultural norms.
- **When it came to distinguishing between laws made for the Hindus** and those for the Muslims, they laid out the statement that “**clear proof of usage will outweigh the written text of the law**” in the case of Hindus. For the Muslims on the other hand, the writings in the Quran would be of foremost importance.
- Since 1937 therefore, the **Shariat Application Act mandates aspects of Muslim social life** such as marriage, divorce, inheritance and family relations. The Act lays out that in matters of personal dispute the state shall not interfere.

What are the Personal Laws of Other Religions?

- The **Hindu Succession Act of 1956** which lays out guidelines for property inheritance among Hindus, Buddhists, Jains and Sikhs.
- The Parsi Marriage and Divorce Act of 1936 lays out rules to be followed by the Parsis according to their religious traditions.
- The **Hindu Marriage Act of 1955** had codified laws related to marriage among Hindus.

Is the Shariat Application Act in India Unchangeable?

- The **applicability of the Shariat Act has been controversial** over the years. There have been previous instances when the issue of protection of women's rights as part of the broader fundamental rights came into conflict with religious rights.
- The most well-known among these is the **Shah Bano case**.
- In 1985, 62-year-old Shah Bano, filed a lawsuit seeking alimony from her former husband.
- The Supreme Court, in this case, had **held up her right to alimony, but the judgment was vehemently opposed by the Islamic community** who considered it to be going against the written rules in the Quran. The case triggered a controversy regarding the extent to which courts can interfere with personal/religious laws.
- The Shariat Application Act in India protects the application of Islamic laws in personal legal relationships, but the Act does not define the laws.
- It clearly **states that in matters of personal disputes**, the State shall not interfere and a religious authority would pass a declaration based on his interpretations of the Quran and the Hadith.
- Personal law **does not fall within the definition of 'laws' under Article 13** of the Constitution. The validity of a personal law cannot be challenged on the basis of **fundamental rights** enshrined in the Constitution.

#CIVIL SERVANTS & FREEDOM OF SPEECH

A senior IAS officer from Telangana, tweeted from her personal account in support of Ms. Bano and questioned the Gujarat government's decision of releasing **11 men convicted on charges of gang-raping Bilkis Bano** during the 2002 Gujarat riots.

It prompted a debate about whether the officer **breached the Civil Service (Conduct) Rules of 1964** and revived the debate about **civil servants' right to express their personal views on matters of law and**

What is Bilkis Bano Case?

- On 15th August 2022, 11 convicts who were serving life sentences for rape and murder in the case, walked out of prison to a heroes' welcome.
- Many also **pointed out that the release is in contravention of guidelines issued by both the federal government and the Gujarat state government** - both say that rape and murder convicts cannot be granted remission.
- Life terms in these crimes are usually served until death in India. The **Supreme Court has asked the Gujarat government for its response after taking up petitions filed by opposition politicians and activists.**

governance.

Role of Civil Servant:

- Adding the word "civil servant" by the officer in the tweet on Bilkis Bano Case is aligned with the sense that the **dharma of the civil servant is to uphold constitutional principles in letter and in spirit, and the rule of law.**
- In this case, **both the spirit of the Constitution and the rule of law were being subverted.**

- This **could be a very dangerous precedent**, as recently when the Andhra Pradesh government released eight murder convicts (on remission, despite them not completing the mandatory 14 years in jail).
- For some actions if civil servants, whether retired or in service, speak up, that would have some kind of a deterrent [effect] on the arbitrary abuse of bureaucratic power.

Can a Civil Servant Express their Views on Government Policy and Action?

- A civil servant has the right to tweet because the citizens of this country have the **fundamental right of free speech (Article 19)** guaranteed to them under the Constitution, which is subject to reasonable restrictions in the interest of securing the state's sovereignty, international relations, health, morality, etc.
- But when a **civil servant undertakes government service**, he/she subject themselves to certain disciplinary rules.
- That prevents a **government servant from becoming a member of a political organisation, or any organisation** of such a nature, or expressing herself freely with regard to anything that has to do with the governance of the country.
- This rule is from the British era and **there is no doubt that the British were very, very strict and didn't want their officers to be talking about how bad the governance was.**
- But in a democracy, the **right to criticise the government is a fundamental right.**

What are the Related Judgements?

- **Lipika Paul v. the State of Tripura:** In a landmark judgment, in January of 2020, the **High Court of Tripura ruled that** 'a government servant is not devoid of her right of free speech, a fundamental right.' The Court did **acknowledge that the expression of the right to speech is subject to curtailment in certain circumstances**; nevertheless, the judgment has significant implications concerning the right to freedom of expression for government employees. In the Bilkis Bano case, the officer was entitled to hold her own beliefs and express them in the manner she desired, subject to not crossing the borders laid down in the Conduct Rules which were applicable in Tripura. A fundamental right cannot be curtailed except by a valid law made by a legislature.
- **Rule 9 of the Rules of the Central Civil Services (Conduct) Rules states,** "No Government servant shall... make any statement of fact or opinion... which has the effect of an adverse criticism of any current or recent policy or action of the Central Government or a State Government."
- **Kerala High Court Judgement:** In 2018, the Kerala High Court had said "One cannot be prevented from expressing his views merely because he is an employee". In a democratic society, **every institution is governed by democratic norms.**

#WHAT IS LGBTQIA+?

The **National Medical Commission (NMC)**, has written to all State Medical Councils, banning conversion therapy of LGBTQIA+ Community and calling it a **"professional misconduct"**.

The NMC by following a Madras High Court directive said that conversion therapy is wrong, under the **Indian Medical Council (Professional Conduct, Etiquettes and Ethics) Regulations, 2002**.

What is LGBTQIA+?

The LGBTQIA+ (lesbian, gay, bisexual, transgender, queer, intersex, asexual or of any other orientation) are the people **who don't identify with cisgender** (sex assigned at birth) **heterosexual "ideals"**.

The 'plus' is used to signify **all of the gender identities** and sexual orientations that **letters and words cannot yet fully describe**.

In India, the LGBTQIA+ community also includes a specific social group, a distinct community: the Hijras.

They are culturally defined either as **"neither men, nor women"**, or as **men who behave like a woman**.

At present they are referred to as the **Third Gender**.

Supreme Court, on 6th September 2018, decriminalised section 377[1], which **titled homosexual relations as "unnatural offences"**.

What is Conversion Therapy and Associated Risk?

Conversion or reparative therapy is an **intervention aimed at changing the sexual orientation or gender identity** of an individual with the use of either **psychiatric treatment, drugs, exorcism (Evil Ceremonial Practices) and even violence**, with the aim being to **make the individual heterosexual (Attraction to Opposite Sex)**.

It includes **efforts to change the core identity of youth** whose gender identity is incongruent with their sex anatomy.

Often, the therapy is offered by quacks with little expertise in dealing with the issue.

According to the American Academy of Child and Adolescent Psychiatry (AACAP), the interventions under conversion therapy are **provided under the false premise that homosexuality and diverse gender identities are pathological**.

Conversion therapy **poses the risk of causing or exacerbating mental health conditions**, like anxiety, stress and drug use which sometimes even lead to suicide.

What are the Rulings for Safeguarding LGBTQIA+?

- **Naz Foundation vs. Govt. of NCT of Delhi (2009)**: Delhi High Court struck off section 377, legalising consensual homosexual activities between adults.
- **Suresh Kumar Koushal Case (2013)**: SC overturned the previous judgment by Delhi High Court (2009) arguing that "plight of sexual minorities" could not be used as an argument for deciding constitutionality of law.
- **Justice K.S. Puttaswamy vs. Union of India (2017)**: SC ruled that Fundamental Right to Privacy is intrinsic to life and liberty and thus, comes under Article 21 of the Indian constitution. It held that "sexual orientation is an essential attribute of privacy".
- **Navtej Singh Johar vs. Union Of India (2018)**: Dismissed the position taken by SC in Suresh Kumar Koushal case (2013) and decriminalised homosexuality.
- **Shafin Jahan v. Asokan K.M. and others (2018)**: The Supreme Court observed that choice of a partner is a person's fundamental right, and it can be a same-sex partner.
- **Transgender Persons (Protection of Rights) Act, 2019**: An Act to provide for protection of rights of transgender persons and their welfare and for matters connected therewith and incidental thereto.
- **Same-sex Marriage**: In February, 2021, the Central Government opposed same-sex marriage in Delhi High Court stating that a marriage in India can be recognised only if it is between a "biological man" and a "biological woman" capable of producing children.

#PREVENTIVE DETENTION IN INDIA

According to the latest crime statistics released by the **National Crime Records Bureau (NCRB)**, there is a rise in Preventive detentions in **2021 of about 23% compared to 2020**, with over 1.1 lakh people being placed under preventive detention.

What is Preventive Detention?

Article 22: Article 22 of the Indian Constitution grants protection to persons who are arrested or detained.

Two Types of Detentions:

- **Preventive detention** is when a person is held in police custody only on the basis of a suspicion that they would conduct a criminal act or cause harm to society. The police have the authority to hold anyone they suspect of committing a criminal offence and also to **make arrests without a warrant or a magistrate's authorization in certain cases**.
- **Punitive detention**, which means detention as a punishment for a criminal offence. It occurs after an offence is actually committed, or an attempt has been made towards the commission of that crime.

What are the Key Highlights of the National Crime Records Bureau (NCRB) Data?

The Highest number of Detention: A total of over 24,500 people placed under preventive detention were either in custody or still detained as of the end of 2021, the **highest since 2017** when the NCRB started recording this data.

State and Union Territories: Tamil Nadu followed by Telangana and Gujarat recorded most preventive detentions in 2021 among the States while **Jammu and Kashmir** recorded the highest number of such detentions in Union Territories (UTs).

The Relative Preventive Laws:

- **National Security Act:** The NCRB data showed that the **number of people arrested under the National Security Act (NSA) had dipped significantly** compared to 2020.
- Preventive detentions under the NSA peaked in 2020 at 741. This number dropped to 483 in 2021.
- The Goonda Act
- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988
- **Public Safety Act (PSA)**
- **Narcotic Drug and Psychotropic Substance Act (NDPS), 1985**
- Prohibition of Insider Trading (PIT)
- Prevention of Black marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (PBMSECA). Further, a category classified as "Other Detention Acts", under which most of the detentions were registered. Since 2017, the highest number of persons to be placed under preventive detention has consistently been under the "Other Detention Acts" category.

#LIVE STREAMING OF SUPREME COURT'S PROCEEDING

Recently, the **Supreme Court (SC)** decided to **live stream its proceedings in crucial Constitution Bench cases that will be heard from 27th September, 2022**.

Positive systemic corrections have been made possible due to the broadcast of court proceedings.

What is the Background?

- The Supreme Court in *Swapnil Tripathi vs Supreme Court of India* (2018) had ruled in favour of

opening up the apex court through live-streaming.

- It held that the **live streaming proceedings are part of the right to access justice under Article 21** (Protection of Life and Personal Liberty) of the Constitution
- **Gujarat High Court was the first high court to livestream court proceedings** followed by Karnataka high court.
- Currently, the **Jharkhand, Karnataka, Madhya Pradesh, Orissa, and Patna High Courts** live stream their proceedings.
- Allahabad High Court is considering **power** doing the same.

What were the Recommendations by the Attorney-General of India?

- **Live-streaming** must be introduced as a **pilot project in Chief-Justice of India's (CJI's) court, and only in Constitution Bench cases.**
- The success of this project will determine whether or not live streaming should be introduced in all courts i.e., the Supreme Court and in courts pan-India.
- De-congestion of courts and improved physical access to courts for litigants who have to otherwise travel long distances to come to the SC were cited by the **Attorney general (AG)** in support of his recommendation.
- A **set of guidelines suggested by the A-G was approved by the SC.**
- However, the A-G suggested that the **court must retain the to withhold broadcasting, and also not permit it in cases involving:**

What is the Scenario in Other Countries?

- **United States:** Since 1955, **audio recording and transcripts of oral arguments has been allowed.**
- **Australia:** **Live or delayed broadcasting is allowed** but the practices and norms differ across courts.
- **Brazil:** Since 2002, **live video and audio broadcast of court proceedings**, including the deliberations and voting process undertaken by the judges in court, is allowed.
- **Canada:** **Proceedings are broadcast live** on Cable Parliamentary Affairs Channel, accompanied by explanations of each case and the overall processes and powers of the court.
- **South Africa:** Since 2017, the Supreme Court of South Africa has **allowed the media to broadcast court proceedings in criminal matters**, as an extension of the right to freedom of expression.
- **United Kingdom:** After 2005, proceedings are broadcast live with a one-minute delay on the court's website, but coverage can be withdrawn in sensitive appeals.

#AMENDMENT IN IBBI REGULATIONS

Recently, **Insolvency and Bankruptcy Board of India (IBBI)** amended its regulations to boost the value of **stressed companies.**

The amendments in **IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016** have been done to **maximise value in resolution.**

It will allow **the sale of one or more assets of an entity undergoing insolvency resolution process** besides other changes.

What are the Amended Regulations?

- The **Committee of Creditors (CoC)** can now **examine whether a compromise or an arrangement can be explored for a Corporate Debtor (CD)** during the liquidation period.
- As many as **1,703 Corporate Insolvency Resolution Processes (CIRPs)** ended up in liquidation till June 2022.
- The **regulator has permitted a resolution professional and the CoC to look for sale of one or more assets of the CD** concerned in cases where there are **no resolution plans for the whole business.**
- A **resolution plan to include sale of one or more assets of CD will be enabled** to one or more successful resolution applicants providing for appropriate treatment of the remaining assets.

- A **Resolution Professional (RP)** will have to **actively seek claims from known (based on the books of accounts) creditors of the company** concerned that will help in making available a clearer picture of the debt. RPs will be required to provide an opinion on whether the company has been subject to **avoidance transactions within 75 days of the start of CIRP**.
- RPs will now be required to **assess and report whether the company has completed any transactions** to siphon off funds prior to insolvency proceedings.
- The regulations mandate that **any appointments made by RPs should follow a transparent process**.
- **Details of any applications** filed for avoidance of transactions will be **made available to resolution applicants before submission of resolutions plans** and can be addressed by the applicants in their plans.
- **The information memorandum is required to contain material information** which will help in assessing its position as a going concern, and not only information about its assets, thereby addressing a critical need of the market.

What is Insolvency and Bankruptcy Board of India?

- The **Insolvency and Bankruptcy Board of India** was established in 2016 under the **Insolvency and Bankruptcy Code, 2016 (Code)**.
- It is a key pillar of the ecosystem responsible for **implementation of the Code** that consolidates and amends the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of the value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders.
- It is a **unique regulator** as it regulates a profession as well as processes.
- It has **regulatory oversight** over the Insolvency Professionals, Insolvency Professional Agencies, Insolvency Professional Entities and Information Utilities.
- It has also been designated as the '**Authority' under the Companies (Registered Valuers and Valuation Rules), 2017** for regulation and development of the profession of valuers in the country.

#ECONOMICALLY WEAKER SECTIONS (EWS QUOTA)

Recently, the **Attorney-General of India** articulated that the **10% quota for Economically Weaker Sections (EWS)** of society does not erode the rights of the **Scheduled Castes, the Scheduled Tribes or the Other Backward Classes**.

What are the Government's Views?

- **Doesn't Harm Quota of Other Classes:** The **EWS quota** was given independently of the already **existing 50% reservation granted for the backward classes**, that is, the scheduled communities and the OBCs.
- The **Attorney general** rejected arguments by petitioners that the exclusion of backward classes from the EWS quota amounted to discrimination, as they have been **loaded with benefits by way of affirmative action's**.
- For example, the members of the Scheduled Caste and Scheduled Tribe communities have been **given several benefits under the Constitution, including Article 16(4)(a)** (special provision for promotion), **Article 243D** (reservation in panchayat and municipality seats), **Article 330** (reservation in the Lok Sabha) and **Article 332** (reservation in state legislative assemblies).
- **Necessary to Uplift the Weaker Section:** The reservation for the backward classes, and now the EWS quota, should be considered by the court as "one single approach of the state intended for the upliftment of the weaker sections of the society".
- Altogether **18.2% of the total population in the general category belonged to EWS** and referred to the **Multi-dimensional Poverty Index** used by the **Niti Ayog**, which would be about 350 million (3.5 crores) of the population.
- **Confer the Constitution:** The **reservation** for OBCs, SCs and STs fall under different silos other than the EWS quota and it does not violate the basic structure of the Constitution.
- **Examples:** As per the written submissions submitted by government referred to how the top court had stood by the validity of the **Right of Children to Free and Compulsory Education Act, 2009**.

- The court had held that the 2009 Act **seeks to remove all barriers, including financial and psychological barriers** which a child belonging to the weaker section and disadvantaged group has to face while seeking admission and therefore upheld it **under Article 21 of the Constitution**.

What are the Opponent's views?

- The amendments **run contrary to the constitutional scheme**, where no segment of available seats/posts can be reserved, only on the basis of economic criteria.
- The amendments also run contrary to the judgment pronounced in the **Indra Sawhney V. Union of India 1992 case**, that a **backward class cannot be determined only and exclusively with reference to economic criteria**.
- The amendments **alter the 50% quota limit** set up in **Indra Sawhney V. Union of India 1992 case**, which according to the petitioner is a part **Basic Structure of the Constitution**.

What is Economically Weaker Section (EWS) Quota?

- The **10% EWS quota** was introduced under the **103rd Constitution (Amendment) Act, 2019** by amending **Articles 15 and 16**. It inserted **Article 15 (6) and Article 16 (6)**.
- It is for **economic reservation** in jobs and admissions in educational institutes for **Economically Weaker Sections (EWS)**.
- It was enacted to promote the welfare of the poor not covered by the 50% reservation policy for **Scheduled Castes (SCs), Scheduled Tribes (STs) and Socially and Educationally Backward Classes (SEBC)**.
- It enables both the **Centre and the States** to provide reservations to the **EWS of society**.

#GUN VIOLENCE IN INDIA

Gun violence is an issue that is hotly debated in different countries. Anti-gun activists have often pointed to the **killing of innocents in mass shootings** in public places and **called for a ban on the purchase of guns by civilians in US** also raise concerns over increasing **gun culture in India**.



What are the Arguments in favor of Access to Guns?

- Some people believe that **guns can actually make crime less likely** by raising the cost of committing a crime. They have particularly pointed out that it is hard to quantify the number of lives that have potentially been saved by civilians who held guns, leave alone the number of crimes that never happened **because the potential victims held a gun**.
- Some researchers have found that there is a **strong negative relationship between access to firearms among blacks in the US and incidents of lynching**. The finding implies that access to firearms helped blacks better protect themselves against incidents of lynching.
- What is the State of Gun Ownership in India?
- The **Small Arms Survey of 2018** claimed that **civilian gun ownership in India** stands at an astounding 70 million, **second only to the US**.
- The figure seems bizarre, given that gun licenses in India number just 3.4 million, over a third of them in Uttar Pradesh.
- In 2016**, India ranked 3rd in terms of **gun-related homicides**, and over 90 % of the cases involved the use of unlicensed weapons. This indicates that the **seizure of illegal guns is just a small part of a larger problem**.
- According to the National Crime Records Bureau report of 2020, some **75,000 firearms were seized in that year**, about half of them from UP, which is widely known to be the hub of illegal arms manufacture.

What are the Gun Control Laws in India?

- **Arms Act of 1959:** It aims to be as extensive as possible to cover all aspects relating to the acquisition, possession, manufacture, sale, import, export, and transport of arms and ammunition in India.
- **Requirements for Acquiring Gun License:**
- The minimum age requirement for acquiring a gun license in India is 21 years.
- The applicant must not have been convicted of any offence involving violence or moral turpitude five years prior to commencing the application, not of an 'unsound mind' and not a threat to public safety and peace.
- Property qualification is not a criterion for acquiring a gun license.
- Upon receiving an application, the **licensing authority (i.e., the Home Ministry)**, asks the officer in-charge of the nearest police station to submit a report about the applicant after thorough vetting within a prescribed time.

Arms Amendment Act 2019:

- The Arms Act amended in 2019 reduces the number of firearms that an individual can procure **from 3 to 2**.
- The validity of the license has been **increased from the present 3 years to 5 years**.
- It also enlists specific provisions on curtailing the use of licensed weapons to ensure social harmony.
- The **punishment of imprisonment is increased between 7 and 14 years**, along with a fine for the offense of acquisition, possession or carrying of prohibited ammunition without a license.
- It prohibits the conversion of one category of firearms to another without a license.
- Unlawful manufacture, sale and transfer are liable for an imprisonment term not less than seven years which could be extended to life, with a fine.

#ABORTION RIGHTS FOR SINGLE WOMEN

Recently, the **Supreme Court** has allowed all women in the country, regardless of marital status, can undergo an abortion up to 24 weeks into pregnancy to access **safe and legal abortion care**.

What is the SC's Ruling?

Ruled over an Old Law:

- It has ruled over a 51-year-old abortion law (The Medical Termination of Pregnancy Act of 1971) which bars **unmarried women from terminating pregnancies which are up to 24-weeks old**.
- The Medical Termination of Pregnancy Act of 1971 and its Rules of 2003 prohibit unmarried women who are between 20 weeks to 24 weeks pregnant to abort with the help of registered medical practitioners.
- The latest amendment to the **MTP Act was made in 2021**.

Right to Choose under Article 21:

- Court held that the **rights of reproductive autonomy, dignity and privacy under Article 21 of the Constitution gives an unmarried woman the right of choice** as to whether or not to bear a child on a similar footing as that of a married woman.

Right to Equality under Article 14:

- Prohibiting single or unmarried pregnant women with pregnancies between 20 and 24 weeks from accessing abortion while allowing married women with the same term of pregnancy to access the care was **violative of the right to equality before law and equal protection (Article 14)**.
- A single woman may have suffered the same **"change in material circumstances"** as a married pregnant

woman. She may have been abandoned or without a job or been a **victim of violence during her pregnancy**.

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.

About:

- 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 amended 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.

#CENTRAL GOVT. BANNED PFI

The Government of India has banned the Popular Front of India and its affiliates for five years under the **Unlawful Activities (Prevention) Act 1967** for having terror links.

What is the Popular Front of India?

- The PFI was created in 2007 through the merger of three Muslim organisations in southern India namely **the National Democratic Front** in Kerala, the Karnataka Forum for Dignity, **and** the Manitha Neethi Pasarai in **Tamil Nadu**. The formation of the PFI was formally announced at a **rally in Bengaluru** during what was called the **"Empower India Conference"** on 16th February, 2007.

What did the Centre Banned PFI?

- The Ministry of Home Affairs** declared the PFI an **"unlawful association"** along with its associates which includes :
- Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organisation (NCHRO), National Women's Front, Junior Front, Empower India Foundation and Rehab Foundation, Kerala**.

Reason for the Ban:

- According to the government, some of the PFI's founding members are **leaders of the Students Islamic Movement of India (SIMI)** and the PFI also has linkages with **Jamaat-ul-Mujahideen Bangladesh (JMB), both of which are proscribed organisations**. There had been a number of instances of **international linkages of PFI with Global Terrorist Groups like Islamic State of Iraq and Syria (ISIS)**.

What is the Unlawful Activities (Prevention) Act?

- Originally enacted in 1967**, the UAPA was amended to be modelled as an **anti-terror law in 2004 and 2008**.
- In August 2019, **Parliament cleared the Unlawful Activities (Prevention) Amendment Bill, 2019** to designate **individuals as terrorists** on certain grounds provided in the Act.
- In order to deal with terrorism crimes, it **deviates from ordinary legal procedures and creates an exceptional regime** where **constitutional safeguards** of the accused are curtailed.

Provisions:

Section 7:

- Section 7 of the UAPA gives the government the power to **"prohibit use of funds"** by an **"unlawful association"**.
- It says that **after an organisation is banned and the Centre is satisfied after an enquiry** that **"any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association, the Central Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with any other moneys, securities or credits which may come into his custody after the making of the order"**.
- It also gives powers to law enforcement agencies to search premises of such organisations **and to examine their books of account**.

Section 8:

- Section 8 of the UAPA gives powers to the Centre to **"notify any place which in its opinion is used for**

the purpose of such unlawful association”.

- The “place” here includes a **house or a building, or a part thereof, or even a tent or a vessel.**

Section 10:

- Section 10 of the UAPA criminalises **membership of a banned organisation.**
- It says that “**being a member of a banned organisation would be punishable with an imprisonment of two years** and may extend to life imprisonment or even death in certain circumstances”.
- It also applies to any person who aids the objectives of the banned organisation.

#SC’S REFERENCE TO CAPITAL PUNISHMENT

Recently, the **Supreme Court (SC)** has **referred to a larger Bench the issues relating to the norms for imposing the Capital Sentence.**

What has the Court Said?

- The current referral of the three-judge **bench** of the Supreme Court to a five-judge bench is **based on an argument that the process of same-day sentencing is hopelessly tilted against the accused.**
- The Bench said that the **State is given an opportunity to present aggravating circumstances** against the accused throughout the duration of a trial.
- The accused, on the other hand, **is able to produce evidence showing mitigating circumstances** in their favour, only after their conviction.

What are the Legalities and Judgements?

- Section 235 of the Code of Criminal Procedure (CrPC) says if the **accused is convicted**, the judge will hear the **accused on the question of sentence and then pass sentence.**
- This process is significant **if** the conviction is for an offence that entails either death or life imprisonment.
- **Section 354(3)** says that when there is **death Punishment or imprisonment for life**, the judgment will have to state the reason for why the sentence was awarded.
- If the **sentence is death**, “**special reasons**” will have to be provided in the judgment.
- **In 1980**, the Supreme Court upheld the constitutionality of capital punishment in ‘**Bachan Singh v State of Punjab**’ on the condition that the **punishment will be awarded in the “rarest of the rare” cases.**
- Crucially, the ruling also stressed that a separate sentencing hearing would be held, where a judge would be persuaded on why the death sentence need not be awarded.
- This position was reiterated in several subsequent rulings of the court, including in ‘**Mithu v State of Punjab**’, a 1982 ruling by a five-judge Bench **that struck down mandatory death sentence** as it falls foul of the right of an accused to be heard before sentencing.

What is Capital Punishment?

- Capital Punishment stands for **the most severe form of punishment.** It is the punishment which is awarded for the **most heinous and grievous crimes against humanity.**
- Certain offences under **Indian Penal Code**, for which the offenders can be sentenced to punishment of death are:
 - Murder (Section 302)
 - Dacoity with murder (Section 396)
 - Criminal Conspiracy (Section 120B)
 - Waging war against the Government of India or attempting to do so (Section 121)
 - Abatement of mutiny (Section 132) and others.
- The term death penalty is sometimes **used interchangeably with capital punishment**, though

imposition of the penalty is not always followed by execution, it can be commuted into life imprisonment or pardoned by the President under Article 72 of Indian Constitution.

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