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Monthly Compendium

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

LEGAL AFFAIRS

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MANTRA

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CRITERION FOR SC STATUS

Recently, the Supreme Court has sought the government's position on petitions challenging the **Constitution (Scheduled Castes) Order of 1950**, which allows only members of **Hindu, Sikh and Buddhist** religions to be recognised as SCs.



What is the Petition about?

The petitions arguing for inclusion Dalit Christians and Muslims have cited **several independent Commission reports** that have documented the **existence of caste and caste inequalities among Indian Christians and Indian Muslims**.

Petitions cited that even after conversion, members who were originally from SCs continued to **experience the same social disabilities**.

The petitions have argued against the proposition that caste identity is lost upon conversion, noting that even in **Sikhism and Buddhism, casteism is not present and yet they have been included as SCs**.

By citing various reports and commission, petitions argue that caste-based discrimination continues even after conversion, hence entitling **these communities to SC status**.

Who is included in the Constitution Order of 1950?

- When enacted, the **Constitution (Scheduled Castes) Order of 1950**, initially provided for recognising **only Hindus as SCs**, to address the social disability arising out of the practice of untouchability. The Order was amended in 1956 to include Dalits who had converted to Sikhism and once more in 1990 to include Dalits who had converted to Buddhism. Both amendments were aided by the reports of the **Kaka Kalelkar Commission in 1955** and the High-Powered Panel (HPP) on Minorities, Scheduled Castes and Scheduled Tribes in 1983 respectively.
- The Union government in 2019 rejected the possibility of **including Dalit Christians as members of SCs**, rooting the exclusion on an Imperial Order of 1936 of the then colonial government, which had first classified a list of the Depressed Classes and specifically excluded **"Indian Christians" from it**.

Why are Dalit Christians excluded?

- The Office of the **Registrar General of India (RGI)** had cautioned the government that SC status is meant for communities **suffering from social disabilities arising out of the practice of untouchability, which it noted was prevalent in Hindu and Sikh communities**.
- It also noted that such a move would significantly swell the population of SCs across the country.
- In 2001, RGI referring to 1978 note and added that like Dalit Buddhists, Dalits who converted to Islam or Christianity belonged to different sets of caste groups and not just one, as a result of which **they cannot be categorised as a "single ethnic group"**, which is required by Clause (2) of Article 341 for inclusion.
- Moreover, the RGI opined that since the practice of **"untouchability" was a feature of Hindu religion and its branches**, allowing the **inclusion of Dalit Muslims and Dalit Christians as SCs** could result in being **"misunderstood internationally"** as India trying to "impose its caste system" upon Christians and Muslims.
- The 2001 note also stated that **Christians and Muslims of Dalit origin had lost their caste identity by way of their conversion** and that in their new religious community, the practice of untouchability is not prevalent.

What are the Constitutional Provisions for Upliftment of the Schedule Caste?

- **Article 15(4)** refers to the special provisions for their advancement.
- **Article 16(4A)** speaks of "reservation in matters of promotion to any class or classes of posts in the services under the State in favour of SCs/STs, which are not adequately represented in the services under the State".
- **Article 17** abolishes Untouchability.
- **Article 46** requires the State 'to promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and to protect them from social injustice and all forms of exploitation.
- **Article 335** provides that the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State.
- **Article 330 and Article 332** of the Constitution respectively provide for reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes in the House of the People and in the legislative assemblies of the

States.

- **Under Part IX relating to the Panchayats and Part IXA of the Constitution** relating to the Municipalities, reservation for SC and ST in local bodies has been envisaged and provided.

#COMMITTEES OF PARLIAMENT

Recently, reorganization of 22 Standing Committees took place.

What are Committees of Parliament?

- A Parliamentary Committee is a panel of MPs that is **appointed or elected by the House or nominated by the Speaker/Chairman**.
- The committee works under the **direction of the Speaker/chairman** and it presents its report to the House or to the Speaker/chairman.
- Parliamentary Committees have their origins in the British Parliament.
- They draw their authority from **Article 105 and Article 118**.
- Article 105 deals with the privileges of MPs.
- Article 118 gives Parliament authority to make rules to regulate its procedure and conduct of business.



Need:

- A Bill is introduced in either House of Parliament to begin legislative business but the process of lawmaking is often complex, and Parliament has limited time for detailed discussions.
- Also, the **political polarisation and shrinking middle ground** has been leading to increasingly rancorous and inconclusive debates in Parliament. Due to these issues, a great deal of legislative business ends up taking place in the Parliamentary Committees instead.

What are the Various Committees of Parliament?

- India's Parliament has multiple types of committees. They can be differentiated on the basis of their work, their membership and the length of their tenure. However, broadly there **are two types of Parliamentary Committees**— Standing Committees and Ad Hoc Committees.
- The Standing Committees are permanent (constituted every year or periodically) and work on a continuous basis.
- Standing Committees can be classified into the following six categories:
 - Financial Committees
 - **Departmental Standing Committees**
 - Committees to Enquire
 - Committees to Scrutinise and Control
 - Committees Relating to the Day-to-Day Business of the House
 - House-Keeping Committees or Service Committees
- While the Ad Hoc Committees are temporary and cease to exist on completion of the task assigned to them.
- They are further subdivided into Inquiry Committees and Advisory Committees.
- The principal Ad hoc Committees are the Select and Joint Committees on Bills.

#RIGHT TO INFORMATION ACT (RTI)

According to a report, the backlog of appeals or complaints under the **Right to Information (RTI) Act** is steadily increasing in Information Commissions every year.

What is the Right to Information (RTI) Act?

- The Right to Information Act 2005 mandates timely response to citizen requests for government information.
- The **basic object of the Right to Information Act** is to empower the citizens, **promote transparency and accountability** in the working of the Government, contain corruption, and make our democracy work for the people in a real sense.



Right to Information (Amendment) Act, 2019:

- It provided that the **Chief Information Commissioner and an Information Commissioner** (of Centre as well as States) shall hold office for such term as prescribed by the Central Government. Before this amendment, their term was fixed for 5 years.
- It provided that the **salary, allowances and other service conditions of the Chief Information Commissioner and an Information Commissioner** (of Centre as well as States) shall be such as prescribed by the Central Government. Before this amendment, the salary, allowances and other service conditions of the Chief Information Commissioner were similar to those of the Chief Election Commissioner and that of an Information Commissioner **were similar to those of an Election Commissioner (State Election Commissioners in case of States)**.
- It removed the provisions regarding deductions in salary of the Chief Information Commissioner, an Information Commissioner, the State Chief Information Commissioner and a State Information Commissioner due to pension or any other retirement benefits received by them for their previous government service.
- The RTI (Amendment) Act, 2019 was criticized on grounds of diluting the law and giving more powers to the central government.

Issues in the Implementation:

- Non-compliance in proactive disclosure by public authorities
- Hostile approach of **Public Information Officers (PIOs)** towards citizens and misinterpreting provisions of the Right to Information (RTI) Act to conceal information.
- Lack of clarity on what public interest is and right to privacy
- Lack of political will and poor infrastructure
- Rejection of information requests made by active citizens on important matters of public importance
- Covert means of attacks and threats against RTI activists and applicants to suppress their voices

What is the Central Information Commission?

- **Established:** The Central Information Commission was established by the Central Government in 2005, under the provisions of the Right to Information Act (2005). It is **not a constitutional body**.
- **Members:** The Commission consists of a Chief Information Commissioner and not more than ten Information Commissioners.
- **Appointment:** They are appointed by the President on the recommendation of a committee consisting of the Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister nominated by the Prime Minister.
- **Tenure:** The Chief Information Commissioner and an Information Commissioner shall hold office for such term as prescribed by the Central Government or until they attain the age of 65 years, whichever is earlier.
- They are **not eligible for reappointment**.

Power and Functions of CIC:

- It is **the duty of the Commission to receive and inquire into a complaint from any person regarding information requested under RTI, 2005**.
- The Commission can order an inquiry into any matter if there are reasonable grounds (suo-moto power).
- While inquiring, the Commission has the powers of a civil court in respect of summoning, requiring documents etc.

#PLACES OF WORSHIP ACT

Solicitor General told the Supreme Court that the validity of the Places of Worship Act, 1991, "may not be covered" by the opinion of its five-judge Constitution bench in the Ayodhya case.

What is the Places of Worship Act?

- It is described as "An Act to prohibit conversion of any place of worship and to provide for the maintenance of the religious character of any place of worship as it existed on the 15th day



of August 1947, and for matters connected therewith or incidental thereto.”

- **Exemption:** The disputed site at Ayodhya was exempted from the Act. Due to this exemption, the trial in the Ayodhya case proceeded even after the enforcement of this law. Besides the Ayodhya dispute, the Act also exempted: Any place of worship which is an ancient and historical monument, or an archaeological site covered by the **Ancient Monuments and Archaeological Sites and Remains Act, 1958**.
- A suit that has been finally settled or disposed of.
- Any dispute that has been settled by the parties or conversion of any place that took place by acquiescence before the Act commenced.
- **Penalty:** Section 6 of the Act prescribes a punishment of a maximum of three years imprisonment along with a fine for contravening the provisions of the Act.

What are the Provisions of the Places of Worship Act?

- **Section 3:** This bars the conversion, in full or part, of a place of worship of any religious denomination into a place of worship of a different religious denomination or even a different segment of the same religious denomination.
- **Section 4(1):** It declares that the **religious character of a place of worship “shall continue to be the same as it existed”** on 15th August 1947.
- **Section 4(2):** It says any suit or legal proceeding with respect to the conversion of the religious character of any place of worship existing on 15th August, 1947, pending before any court, shall abate and no fresh suit or legal proceedings shall be instituted.
- The proviso to this subsection saves suits, appeals, and legal proceedings that are pending on the date of commencement of the Act if they pertain to the conversion of the religious character of a place of worship after the cut-off date.
- **Section 5:** It stipulates that the Act shall not apply to the Ramjanmabhoomi-Babri Masjid case, and to any suit, appeal, or proceeding relating to it.

What was the Supreme Court’s view during Ayodhya Judgement?

- In the 2019 Ayodhya verdict, the Constitution Bench referred to the law and said it manifests the secular values of the Constitution and prohibits retrogression.
- The law is hence a legislative instrument designed to protect the secular features of the Indian polity, which is one of the basic features of the Constitution.

#KARNATAKA HIJAB BAN ISSUE

Recently, the **Supreme Court** has delivered a split verdict in the Karnataka Hijab ban case.

In case of a split verdict, the **case is heard by a larger Bench**.

The larger Bench to which a split verdict goes can be a three-judge Bench of the High Court, or an appeal can be preferred before the Supreme Court. In March, 2022, the high court had **dismissed the petitions filed by a section of Muslim students** in Karnataka seeking permission to wear the hijab inside classrooms, ruling it is **not a part of the essential religious practice in Islamic faith**.



How have courts ruled so far on the issue of a hijab?

- In 2015, **at least two petitions were filed before the Kerala High Court** challenging the prescription of dress code for All India Pre-Medical Entrance which prescribed wearing “light clothes with half sleeves not having big buttons, brooch/badge, flower, etc. with Salwar/Trouser” and “slippers and not shoes”.
- Admitting the argument of the **Central Board of School Education (CBSE)** that the rule was only to ensure that candidates would not use unfair methods by concealing objects within clothes, the Kerala HC directed the **CBSE to put in place additional measures for checking students** who “intend to wear a dress according to their religious custom, but contrary to the dress code”.
- In **Amna Bint Basheer v CBSE (2016)**, the Kerala HC examined the issue more closely. The Court held that the **practice of wearing a hijab constitutes an essential religious practice** but did not quash the CBSE rule.
- The court once again allowed for the “additional measures” and safeguards put in place in 2015.

- However, on the issue of a uniform prescribed by a school, another Bench ruled differently in **Fathima Tasneem v State of Kerala (2018)**.
- A single Bench of the Kerala HC held that **collective rights of an institution would be given primacy** over individual rights of the petitioner.

How is Religious Freedom protected under the Constitution?

- Article 25 to 28 of Part-3 (Fundamental Rights) of the Constitution confers Right to freedom of religion.
- **Article 25(1) of the Constitution** guarantees the “freedom of conscience and the right freely to profess, practise and propagate religion”.
- It is a **right that guarantees a negative liberty** — which means that the state shall ensure that there is no interference or obstacle to exercise this freedom.
- However, like all **fundamental rights**, the state can restrict the right for grounds of public order, decency, morality, health and other state interests.
- **Article 26** talks about the freedom to manage religious affairs subject to public order, morality and health.
- **Article 27** states that no person shall be compelled to pay any taxes for the promotion or maintenance of any particular religion.
- **Article 28** states that the freedom to attend religious instruction or religious worship in certain educational institutions.

#UNIFORM CIVIL CODE

The Ministry of Law and Justice has told the **Supreme Court** that the court cannot direct Parliament to frame any law and it sought dismissal of **PILs (Public Interest Litigation)** seeking a **Uniform Civil Code (UCC) in the country**.

What are the PILs about?

- Petitioners sought uniformity in the **personal laws regulating marriage divorce, maintenance and alimony** (money that has to be paid by law to former wife or husband).
- The petitions sought steps to **remove anomalies regarding laws for divorce and make them uniform for all citizens** and uniform guidelines for adoption and guardianship of children.



What is the Government's Stand?

- This is a matter of policy for the **elected representatives of the people to decide and no direction in this regard can be issued** by the court. It is for the legislature to enact or not enact a piece of legislation.
- The Law Ministry had requested the **Law Commission** to examine various issues relating to the UCC and make recommendations considering the sensitivity and in-depth study involved of various personal laws governing different communities.
- The 21st Law Commission had uploaded a consultation paper titled 'Reform of Family Law' subsequently in August 2018. But the term of the 21st Law Commission came to an end in August 2018.

What is a Uniform Civil Code?

- UCC is envisaged to provide for one law for the entire country, applicable to all religious communities in their personal matters such as marriage, divorce, inheritance, adoption etc. **Article 44** of the Constitution lays down that the state shall endeavour to secure a UCC for the citizens **throughout the territory of India**.
- Article 44 is one of the **Directive Principles of State Policy (DPSP)**.
- The purpose behind Article 44 is to strengthen the object of "**secular democratic republic**" as enshrined in the Preamble of the Constitution.

Background:

- The origin of the UCC dates back to **colonial India when the British government submitted its report in 1835** stressing the need for **uniformity in the codification of Indian law** relating to crimes, evidence, and contracts, specifically recommending that personal laws of Hindus and Muslims be kept outside such codification.

- Increase in legislation dealing with personal issues in the far end of British rule forced the government to form the **B N Rau Committee to codify Hindu law in 1941**.
- Based on these recommendations, a bill was then adopted in 1956 as the **Hindu Succession Act** to amend and codify the law relating to intestate or unwilled succession, among Hindus, Buddhists, Jains, and Sikhs.
- However, there were separate personal laws for Muslims, Christians and Parsis.
- In order to bring uniformity, the courts have often said in their judgements that the government should move towards a UCC.
- The judgement in the Shah Bano case (1985) is well known.
- Another case was the **Sarla Mudgal Case (1995)**, which dealt with the issue of bigamy and conflict between the personal laws existing on matters of marriage.
- By arguing that practices such as triple talaq and **polygamy** impact adversely the right of a woman to a life of **dignity**, the Centre has raised the question whether constitutional protection given to religious practices should extend even to those that are not in compliance with fundamental rights.
- **Status of Uniform Codes in India:**
- Indian laws do follow a uniform code in most civil matters such as Indian Contract Act 1872, **Civil Procedure Code**, Transfer of Property Act 1882, Partnership Act 1932, Evidence Act, 1872 etc.
- States, however, have made hundreds of amendments and, therefore, in certain matters, there is diversity even under these secular civil laws.
- Recently, several states refused to be governed by the **uniform Motor Vehicles Act, 2019**.
- **As of now, Goa is the only state in India with a UCC.**

#FRESH HINDI IMPOSITION ROW

The 11th volume of the Report of the Official Language Committee submitted to the President of India has triggered angry reactions from some of the Southern states (they view the report as an attempt to impose Hindi on them).



What are the Recommendations of the Panel?

- Hindi should be the **medium of instruction in IITs, IIMs, and central universities** in the Hindi-speaking states.
- The language used for communication in the administration should be Hindi, and efforts should be made to teach the curriculum in Hindi.
- High Courts in other states, where proceedings are recorded in English or a regional language can make available translations in Hindi, because verdicts of High Court of other states are often cited in judgments.
- Lower courts in Uttar Pradesh, Uttarakhand, Madhya Pradesh, Bihar, Haryana, and Rajasthan already use Hindi. The use of Hindi, by the officers and other employees in the central government, in Hindi-speaking states would **reflect in their Annual Performance Assessment Report (APAR)**.
- It is the Committee's responsibility and role to see that the Hindi language is promoted in official communication.
- There are specific proposals to make the language in official letters and invitations simpler. "There should be a deliberate attempt to reduce the usage of the English language in official communication and to increase the usage of Hindi".
- "Knowledge of Hindi would be compulsory in a number of government jobs,"

Are these Recommendations Intended for Every State Government, its Institutions, and Departments?

- **States like Tamil Nadu and Kerala are exempt as per the Official Languages Act, 1963 and the Rules and Regulations (of the Act), 1976.**
- **The law is implemented only in 'A' category states, in which the official language is Hindi."**
- According to the Rules, **region 'A' includes** the states of Bihar, Haryana, Himachal Pradesh, Madhya Pradesh, Chhattisgarh, Jharkhand, Uttarakhand, Rajasthan, and Uttar Pradesh, and the Union Territories of Delhi and Andaman and Nicobar Islands.
- **Region 'B'** includes Gujarat, Maharashtra, and Punjab, and the Union Territories of Chandigarh, Daman and Diu and Dadra and Nagar Haveli.
- Other states, where the **use of Hindi is less than 65%, are listed under region 'C'.**

- The **Committee** has suggested that efforts should be made to use **Hindi “100%” in the ‘A’ states**.
- The medium of instruction in IITs, central universities, and Kendriya Vidyalayas (KVs) in the ‘A’ states should be Hindi, while the regional language should be used in other states.
- **As per Committee, Use of Hindi in Government Departments:**
- The use of Hindi in Ministries like Defence and Home are 100% but the Education Ministry has not yet come to that level.
- The **Committee had certain parameters to assess the usage of language**.
- Many central universities including Delhi University, Jamia Millia Islamia, BHU, and AMU, the usage is just 25-35% when it should have been 100%.

What is Committee of Parliament on Official Language?

- The Committee of Parliament on Official Language was **set up in 1976 under Section 4 of The Official Languages Act, 1963**.
- With the active promotion of Hindi being mandated by Article 351 of the Constitution, the Official Language Committee was set up to review and promote the use of Hindi in official communications.
- The **first Report** of the Committee was submitted in **1987**.
- The Committee is constituted & chaired by the union home minister, and has, in accordance with the provisions of the 1963 Act, 30 members (20 MPs from Lok Sabha and 10 MPs from Rajya Sabha).
- Unlike the **other Parliamentary panels submit its report to Parliament, this panel submits its report to the President**, who “shall [then] cause the report to be laid before each House of Parliament, and sent to all the State Governments”.

What are the Government’s Effort to Promote Hindi and Other Regional Language?

Three-Language Formula (Kothari Commission 1968)

- **First language:** It will be the **mother tongue** or regional language.
- **Second language:** In **Hindi** speaking states, it will be other modern Indian languages or English. In non-Hindi speaking states, it will be Hindi or English.
- **Third Language:** In Hindi speaking states, it will be **English or a modern Indian language**. In the non-Hindi speaking state, it will be **English or a modern Indian language**.
- The new **National Education Policy (NEP) in 2020** too had attempts to “promote Hindi, Sanskrit” and regional languages. The **NEP says that mother tongue or the regional language would be the “preferred” mode of instruction until Class 5, and possibly Class 8**.
- **NEP 2020** it was decided to push for the three-language formula, to promote multilingualism and national unity.

What is Position of Hindi in India with respect to other Regional Languages?

- **As per, 2011 Linguistic census:** there are 121 mother tongues in India.
- 52.8 crores individuals or 43.6% population declared Hindi as its mother tongue and 11% of the population reported Hindi as their second language.
- So, 55% of the population knows Hindi as either as mother tongue or as their second language.
- Bengali 9.72 crore individual and 8% population, as 2nd most spoken language in India.
- The share of the languages like Bengali, Malayalam and Urdu has declined but Hindi and Punjabi speakers have increased.
- Between 1971 to 2011 the speakers of Hindi multiplied by the 2.6 times from 20.2 Crore to 52.8 crores.

What is the Constitutional Status of Hindi?

- **Schedule 8** of the Indian Constitution has 22 Official Languages, **including Hindi as well**.
- **Article 351** states that, it is the duty of the Union to **encourage the spread of the Hindi language** to make it lingua franca (a shared language of communication used by people who are speakers of different languages) in India without interfering with its genius, style and expressions.
- **Article 348 (2)** provides that the Governor of the State may, with the previous consent of the President, authorize the use of the **Hindi language** or any other language used for **any official purpose of the State, in the proceedings of the High Court** having its principal seat in that State provided that **decrees, judgments or orders passed by such High Courts shall be in English**.
- As per **Article 343(1)** of the Constitution of India, **Hindi in Devanagari script shall be the official language of**

the Union.

- The **Official Language Act, 1963** provides under **Section 7** that the use of Hindi or official language of a State in addition to the English language may be authorized, with the consent of the President of India, by the Governor of the State for the purpose of judgments, decrees etc. made by the High Court for that State.

#PREVENTION OF MONEY LAUNDERING ACT, 2002

Recently, the **Supreme Court** has rejected a plea by a political leader challenging his arrest by the **Enforcement Directorate (ED)** on **Money Laundering** charges.



What is Money Laundering?

- Money laundering is the **process of making large amounts of money generated by criminal activity**, such as **drug trafficking or terrorist funding**, appear to have come from a legitimate source.
- Criminal activities like **illegal arms sales, smuggling, drug trafficking and prostitution rings, insider trading, bribery and computer fraud schemes** produce large profits.
- Thereby it creates the **incentive for money launderer to "legitimize" the ill-gotten gains** through money laundering. The money generated is called '**dirty money**' and money laundering is the **process of conversion of 'dirty money'**, to make it appear as '**legitimate**' money.

Stages:

- **Placement:** The first stage is when the crime money is injected into the formal financial system.
- **Layering:** In the second stage, money injected into the system is layered and spread over various transactions with a view to obfuscate the tainted origin of the money.
- **Integration:** In the third and the final stage, money enters the financial system in such a way that original association with the crime is sought to be wiped out and the money can then be used by the offender as clean money.

What is the Prevention of Money Laundering Act (PMLA), 2002?

Background:

- The PMLA was enacted in response to India's global commitment (**Vienna Convention**) to combat the menace of money laundering. These include:
- **United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988**
- **Basle Statement of Principles, 1989**
- **Forty Recommendations of the Financial Action Task Force on Money Laundering, 1990**
- **Political Declaration and Global Program of Action adopted by the United Nations General Assembly in 1990.**

About:

- 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.

Recent Amendments:

- **Clarification about the Position of Proceeds of Crime:** Proceeds of the Crime not only includes the property derived from scheduled offence but would also include any other property derived or obtained indulging into any criminal activity relate-able or similar to the scheduled offence.
- **Money Laundering Redefined:** Money Laundering was not an independent crime rather depended on another crime, known as the predicate offence or scheduled offence.
- The amendment seeks to treat money laundering as a stand-alone crime.
- Under Section 3 of PMLA, the person shall be accused of money laundering if in any manner that person is directly or indirectly involved in the proceeds of the crime.
 - Concealment

- Possession
- Acquisition
- Use or projecting as untainted property
- Claiming as untainted property

What is the Enforcement Directorate?

History:

- The Directorate of Enforcement or the ED is a multi-disciplinary organization mandated with investigation of economic crimes and violations of foreign exchange laws. The origin of this Directorate goes back to 1st May, 1956, when an 'Enforcement Unit' was formed in the Department of Economic Affairs for handling Exchange Control Laws violations under Foreign Exchange Regulation Act, 1947 (FERA '47).
- With the onset of the process of **economic liberalization, FERA, 1973**, which was a regulatory law, was repealed and in its place, **Foreign Exchange Management Act, 1999 (FEMA)** came into operation.
- Recently, with the increase in the number of cases relating to economic offenders taking shelter in foreign countries, the Government has passed the **Fugitive Economic Offenders Act, 2018 (FEOA)** and ED is entrusted with its enforcement.

Functions:

- **The PMLA, 2002:** 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 FEMA, 1999:** 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 FEOA, 2018:** 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 PRIVACY

The Supreme Court rejects WhatsApp-Meta pleas against **Competition Commission of India (CCI)** probe into **privacy policy of 2021**. Both WhatsApp and Meta have argued that the anti-trust watchdog cannot investigate the privacy policy as it has been kept in abeyance until the introduction of the **revised data protection bill**. The CCI is an independent authority to consider any violation of the **provisions of the Competition Act of 2002** and **cannot be dissuaded from investigation and alleged violation of Competition Act, 2002**.



What was the Personal Data Protection Bill?

- The **Personal Data Protection Bill, 2019** was introduced in **Lok Sabha** by the Minister of Electronics and Information Technology, on December 11, 2019. Commonly referred to as the "Privacy Bill", it intended to protect individual rights by regulating the collection, movement, and processing of data that is personal, or which can identify the individual. The govt withdrew the bill due to various concerns raised by technology giants and other issues raised by the common people.

What is Right to Privacy?

- Generally understood that privacy is synonymous with the right to be let alone.
- The Supreme Court described privacy and its importance in the landmark decision of **K.S. Puttaswamy v. Union of India** in 2017 that - **Right to Privacy is a fundamental** and inalienable right and attaches to the person covering all information about that person and the choices that he/ she makes.
- The right to privacy is protected as an intrinsic part of the right to life and personal liberty under **Article 21** and as a part of the freedoms guaranteed by Part III of the Constitution.

- **Restrictions (as stated in the Judgement):**
- The right may be restricted only by state action that passes each of the three tests:
 - First, such state action must have a legislative mandate,
 - Second, it must be pursuing a legitimate state purpose, and
 - Third, it must be proportionate i.e., such state action- both in its nature and extent, must be necessary in a democratic society and the action ought to be the least intrusive of the available alternatives to accomplish the ends.

What are the Government Steps to Protect Privacy?

B N Srikrishna Committee: Government appointed a committee of experts on data protection under the chairmanship of Justice B N Srikrishna that submitted its report in July 2018.

Information Technology Act, 2000: The IT Act provides for safeguard against certain breaches in relation to data from computer systems. It contains provisions to prevent the unauthorized use of computers, computer systems and data stored therein.

What is the Competition Commission of India (CCI)?

- The CCI was established in March 2009 by the Government of India under the Competition Act, 2002 for the administration, implementation, and enforcement of the Act.
- It primarily pursues three issues of anti-competitive practices in the market:
 - Anti-competitive agreements.
 - Abuse of dominance.
 - Combinations.

Objectives:

- Eliminate practices having adverse effects on competition.
- Promote and sustain competition.
- Protect the interests of consumers.
- Ensure freedom of trade in the markets of India.
- Establish a robust competitive environment through: **Proactive engagement with all stakeholders, including consumers, industry, government, and international jurisdictions.**

Composition:

- The Commission consists of one Chairperson and six Members who shall be appointed by the Central Government.
- The commission is a **quasi-judicial body** which gives opinions to statutory authorities and also deals with other cases.
- The Chairperson and other Members shall be whole-time Members.

#WHAT ARE THE LOK ADALATS?

Recently, the **Chhattisgarh government** had launched **Lok Adalat in jails for the speedy disposal of cases for the prisoners of the state.**

These courts will be held every working Saturday and provide relief to undertrials, and in some cases convicted prisoners, by explaining their rights and legal options such as plea bargaining and settlement.

What is Lok Adalats?

- The term '**Lok Adalat**' means '**People's Court**' and is based on Gandhian principles.
- As per the **Supreme Court**, it is an old form of adjudicating system prevalent in ancient India and its validity has not been taken away even in the modern days too.
- It is one of the components of the Alternative Dispute Resolution (ADR) system and delivers informal, cheap and expeditious justice to the common people.
- The first **Lok Adalat camp** was organized in **Gujarat in 1982** as a voluntary and conciliatory agency without any statutory backing for its decisions.



- In view of its growing popularity over time, it **was given statutory status under the Legal Services Authorities Act, 1987**. The Act makes the provisions relating to the organization and functioning of the Lok Adalats.

Organization:

- The State/District Legal Services Authority or the Supreme Court/High Court/Taluk Legal Services Committee may organize Lok Adalats at such intervals and places and **for exercising such jurisdiction and for such areas as it thinks fit**.
- Every Lok Adalat organized for an area **shall consist of such number of serving or retired judicial officers and other persons of the area** as may be specified by the agency organizing.
- Generally, a **Lok Adalat consists of a judicial officer as the chairman** and a lawyer (advocate) and a social worker as members.
- National Legal Services Authority (NALSA) along with other Legal Services Institutions conducts Lok Adalats.
- NALSA was constituted under the **Legal Services Authorities Act, 1987** which came into force **on 9th November 1995** to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society.
- The Legal Services Authorities Act, 1987 was **amended in 2002 to provide for the establishment of the Permanent Lok Adalats** to deal with cases pertaining to the public utility services.

Jurisdiction:

- A Lok Adalat shall have **jurisdiction to determine and to arrive at a compromise or settlement** between the parties to a dispute in respect of:
 - Any case pending before any court, or
 - Any matter which falls within the jurisdiction of any court and is not brought before such court.
- Any case pending before the court **can be referred to the Lok Adalat for settlement if:**
 - Parties agree to settle the dispute in the Lok Adalat or one of the parties applies for referral of the case **to the Lok Adalat or court is satisfied that the matter can be solved by a Lok Adalat.**
- In the case of a pre-litigation dispute, the **matter can be referred to the Lok Adalat on receipt of an application from any one of the parties** to the dispute.
- Matters such as matrimonial/family disputes, criminal (compoundable offenses) cases, land acquisition cases, labor disputes, workmen's compensation cases, bank recovery cases, etc. **are being taken up in Lok Adalats.**
- However, the **Lok Adalat shall have no jurisdiction in respect of any case or matter relating to an offense not compoundable under any law.**

Powers:

- The Lok Adalat shall have the same powers as are **vested in a Civil Court under the Code of Civil Procedure (1908)**.
- Further, a Lok Adalat shall have the **requisite powers to specify its own procedure for the determination of any dispute** coming before it.
- All proceedings before a Lok Adalat shall be deemed to be **judicial proceedings within the meaning of the Indian Penal Code (1860)** and every Lok Adalat shall be deemed to be a Civil Court for the purpose of the Code of Criminal Procedure (1973).
- An award of a Lok Adalat shall be deemed to be a decree of a Civil Court or an order of any other court.
- Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute. No appeal shall lie to any court against the award of the Lok Adalat.

#ROLE & POWERS OF GOVERNOR

Recently, Kerala Governor **warned ministers that the statements of individual ministers** that lower the dignity of

What is Pleasure Doctrine?

- The pleasure doctrine is a **concept derived from English common law**, under which the crown can dispense with the services of anyone in its employ at any time.
- In **India, Article 310 of the Constitution** says every person in the defence or civil service of the Union **holds office during the pleasure of the President**, and every member of the **civil service in the States** holds office during the **pleasure of the Governor**.
- However, **Article 311 imposes restrictions on the removal of a civil servant**. It provides for civil servants being given a reasonable opportunity for a hearing on the charges against them.

the Governor's office **can invite action including withdrawal of pleasure.**

- There is also a provision to dispense with the inquiry if it is not practicable to hold one, or if it is not expedient to do so in the interest of national security.
- Under **Article 164, the Chief Minister (CM) is appointed by the Governor**; and the other Ministers are appointed by the Governor on the CM's advice.
- It adds that **Ministers hold office during the pleasure of the Governor**. In a constitutional scheme in which they are appointed solely on the CM's advice, the 'pleasure' referred to is also taken to mean the right of the CM to dismiss a Minister and not that of the Governor. In short, the Governor of an Indian State cannot remove a Minister on his own.

Supreme Court's View:

Shamsher Singh & Anr vs State Of Punjab (1974):

- In this case, a **seven-judge Constitution Bench of the Supreme Court said that the President and Governor, custodians of all executive and other powers under various Articles, shall exercise their formal constitutional powers only upon and in accordance with the advice of their Ministers** save in a few well-known exceptional situations.



Nabam Rebia And Etc. vs Deputy Speaker And Ors (2016):

- In this case, the **Supreme Court cited the observations of B R Ambedkar**: "The Governor under the Constitution has no function which he can discharge by himself; no functions at all. While he has no functions, he has certain duties to perform, and the House will do well to bear in mind this distinction."
- SC ruled that **Article 163 of the Constitution does not give the Governor a general discretionary power** to act against or without the advice of his Council of Ministers

Mahabir Prasad v. Prafulla Chandra 1969:

- The case revolved around the question of the **nature of the governor's pleasure under article 164(1)**.
- The **governor's pleasure under article 164(1) is subject to Article 164(2)**. Thus, the withdrawal of the governor's pleasure must coincide with the withdrawal of support to the ministry by the assembly.

What are Constitutional Provisions Related to the Governor?

- **Article 153** says that there shall be a Governor for each State. One person can be appointed as Governor for two or more States.
- A **Governor is appointed by the President** and is a nominee of the Central Government.
- It is stated that the **Governor has a dual role**.
- He is the constitutional head of the state, bound by the advice of his Council of Ministers (CoM).
- He functions as a vital link between the Union Government and the State Government.
- **Articles 157 and 158** specify eligibility requirements for the post of governor. A governor must:
 - Be a citizen of India.
 - Be at least 35 years of age.
 - Not be a member of the either house of the parliament or house of the state legislature.
 - Not hold any office of profit.
- Governor has the power to grant **pardons**, reprieves, etc. (Article 161).
- There is a **CoM with the CM at the head to aid and advise the Governor** in the exercise of his functions, except some conditions for discretion. (Article 163).
- The Governor **appoints the Chief Minister and other Ministers** (Article 164).
- Governor assents, withholds assent, or reserves the bill for the consideration of the President passed by the Legislative Assembly (Article 200).
- Governors may promulgate the Ordinances under certain circumstances (Article 213).

What are the Friction Points in Governor-State Relations?

- **Governor is envisaged as an apolitical head** who must act on the advice of the council of ministers. However, the Governor enjoys certain discretionary powers granted under the Constitution. **For example:**
- **Giving or withholding assent to a Bill** passed by the state legislature,
- **Determining the time needed** for a party to prove its majority, or **which party must be called first to do so,**

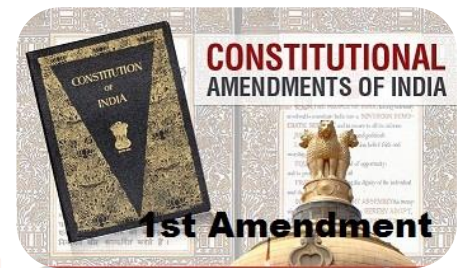
generally after a hung verdict in an election.

- There are no **provisions laid down for the manner in which the Governor and the state must engage publicly** when there is a difference of opinion.
- The Governor has 5-year tenure; he can remain in office only until the pleasure of the President.
- In 2001, the National Commission to Review the Working of the Constitution held that the Governor owes his appointment and his continuation to the Union.
- There is the **apprehension that he is likely to act in accordance with the instructions received from the Union Council of Ministers**.
- In the Constitution, **there are no guidelines for exercise of the Governor's powers**, including for appointing a CM or dissolving the Assembly.
- There is **no limit set for how long a Governor can withhold assent to a Bill**.
- The Governor sends a report to the centre which forms the basis of the Union cabinet's recommendations to the President for invoking **Article 356 (President's Rule)**.

#FIRST AMENDMENT TO INDIAN CONSTITUTION

The **Supreme Court (SC)** has agreed to examine a **PIL (Public Interest Litigation)** challenging changes made to the **right to freedom of speech and expression** by the first amendment to the Constitution in 1951.

The court said there is a legal issue, which arises for consideration, and has sought the Center's views.



What are the Petitioner's Arguments?

Objectionable Insertions:

- **Section 3(1) of the amending Act substituted original Clause (2) of Article 19** with a new Clause (2), which contained **two objectionable insertions**.
- Original Clause (2) of Article 19 was dealing with reasonable restrictions on the freedom of speech and expression guaranteed under Article 19(1)(a).
- New Clause (2), contained "two objectionable insertions" allowing restrictions also "in the interest of public order"
- and "in relation to incitement to an offence"

Neglects National Security:

- The amendment also neglects **national security** by dropping the expression '**tends to overthrow the State**' which raises **concern in the context of the dangers posed to the concept of secular democratic republic by radicalism, terrorism and religious fundamentalism**.

These two Insertions Protect Sections:

- **124A: Sedition**
- **153A:** Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.
- **295A:** Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs)
- **505: Statements conducing to public mischief) of the Indian Penal Code from the vice of unconstitutionality.**
- **Section 3 (1)(a)- 3 (2) Void:**
- The plea urged the **court to declare Section 3 (1)(a) and 3 (2) of the First Amendment "beyond the amending power of Parliament"** and void since the "same damage the basic or essential features of the Constitution and destroy its **basic structure**".

What was the Constitution First Amendment Act, 1951?

- The First Amendment was passed in **1951 by the Provisional Parliament, members of who had just finished drafting the Constitution as part of the Constitutional Assembly**.
- The First Amendment Act amended **articles 15, 19, 85, 87, 174, 176, 341, 342, 372 and 376**.
- Provided for the saving of laws providing for the acquisition of estates, etc.
- Added **Ninth Schedule** to protect the land reforms and other laws included in it from the judicial review. After

Article 31, Articles 31A and 31B were inserted.

- **Reason for Amendments:** The immediate reason for the amendments were a series of Supreme Court and High Court judgments that had struck down provisions of public safety laws, press related laws and criminal provisions that were deemed to be incompatible with the constitutional right to freedom of speech.

#AMENDMENTS TO IT RULES, 2021

Recently, government notified amendments to the **Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021**.

These are **aimed at making internet-open, safe & trusted and accountable**, for the digital nagriks of the country.

What are the Key Amendments to IT Rules, 2021?

New Guidelines for Social Media Intermediaries:

- Currently, **intermediaries are only required to inform users** about not uploading certain categories of harmful/unlawful content.
- These amendments impose a **legal obligation on intermediaries to take reasonable efforts to prevent users from uploading such content**. The new provision will ensure that the **intermediary's obligation is not a mere formality**.
- The amendment requires intermediaries **to respect the rights guaranteed to users under the Articles 14, 19 and 21 of the Indian Constitution**, therefore, including a reasonable expectation of due diligence, privacy and transparency. For effective communication of the rules and regulations of the intermediary, it is important that the communication is done in regional Indian languages as well.



Establishment of Grievance Appellate Committee(s):

- Grievance Appellate Committee(s) will be established to **allow users to appeal against the inaction of, or decisions taken by intermediaries on user complaints**.
- However, users will always have the **right to approach courts for any remedy**.

What are the Key IT Rules, 2021?

- **Mandates Social Media to Exercise Greater Diligence:** Broadly, the IT Rules (2021) mandate social media platforms to **exercise greater diligence with respect to the content on their platforms**.
- **Establish a Grievance Officer:** They are required to establish a grievance redressal mechanism and **remove unlawful and unfitting content within stipulated time frames**. The grievance officer of the platform's redressal mechanism is **responsible for receiving and resolving complaints of the users**.
- **Ensuring Online Safety and Dignity of Users:** Intermediaries **shall remove or disable access within 24 hours** of receipt of complaints of contents that exposes the private areas of individuals, show such individuals in full or partial nudity or in sexual act or is in the nature of impersonation including morphed images etc.
- **Educating Users about the Privacy Policies:** The **privacy policies of the social media platforms must ensure** that users are educated about not circulating copyrighted material and anything that can be construed as defamatory, racially or ethnically objectionable, paedophilic, threatening the unity, integrity, defence, security or sovereignty of India or friendly relations with foreign states, or violative of any contemporary law.

#SC ON DNA TESTS IN INDIA

Recently, the **Supreme Court** has expressed concern about growing uses of Deoxyribonucleic Acid (DNA) Tests in court cases.

What are the Issues involved?

- A **growing number of complainants are asking for DNA tests**. Such demands, according to the government laboratory, are growing by around 20% annually.
- Although the **3,000-odd DNA tests** performed yearly by Indian laboratories are insignificant in comparison to the **70 other nations** that rely on DNA Technology, the spike in demand contradicts worries about privacy and



probable data abuse.

- **DNA tests** fall into a gray area in the **pursuit of justice**, bridging the gap between the '**eminent need**' to **uncover the truth**, whether it be in the form of evidence in a **criminal case**, a **claim of marital infidelity**, or **proving paternity**. and the risks of slipping into **self-incrimination** and **encroachment on individual privacy**.
- This brings attention to the **expanding use of technology** for improving the process of justice but it also **violates people's privacy**
- As part of the **right to life under Article 21**, the Supreme Court acknowledged that **bodily autonomy and privacy are part of fundamental right**.

What is Deoxyribonucleic Acid (DNA)?

- **Deoxyribonucleic acid (DNA)** is an organic molecule with a complex molecular structure.
- **DNA** molecule's strands are made up of a long chain of **monomer nucleotides**. It is arranged in a **double helix structure**.
- **James Watson** and **Francis Crick** discovered that **DNA** is a **double-helix polymer** in **1953**.
- It is essential for the transfer of the **genetic characteristic** of the living being from one generation to the other generation.
- The majority of **DNA** is found in the **cell nucleus** so it is called **nuclear DNA**.

What is the Precedents Set by Supreme Court in previous cases?

- Precedents set by the **Supreme Court** through the years show that judges cannot order **genetic tests** as a "**roving enquiry**" (*Bhabani Prasad Jena, 2010*).
- In the **Banarsi Dass case, 2005**, it held that **DNA test** must balance the **interests of the parties**. **DNA tests** should also not be ordered if there was **other material evidence** at hand to prove the case.
- Before ordering a **genetic test**, courts should consider the "**proportionality of the legitimate aims**," the court stated in its **Ashok Kumar judgment 2021**.
- The ruling of the Constitution Bench in the **K.S. The Puttaswamy case (2017)** affirming that the **right to privacy is part of the rights to life (Article 21)** has only strengthened the privacy argument. In a case involving a woman, the Supreme Court recently ruled that forcing someone to submit to a **DNA test** against their will would **violate their right to personal liberty and privacy**.

#SUPERSTITION LAWS IN INDIA

The brutal murders as part of "ritualistic human sacrifices" of two women in Kerala have left the country in shock. The murders have sparked a debate about the **prevalence of superstitious beliefs, black magic, and witchcraft in India**.

What is Superstition?

It is a belief related to **ignorance or fear** and **characterized by obsessive reverence** for reverence for the supernatural.

- The term 'Superstition' has been taken from the Latin word '**Superstitio**', which indicates **extreme fear of the god**. Superstitions are not country, religion, culture, community, region, caste, or class-specific, it is **widespread and found in every corner of the world**.

What are the Related Laws in India?

- In India, there is no central law that exclusively deals with crimes related to witchcraft, superstition, or occult-inspired activities.
- In 2016, Prevention of Witch-Hunting Bill was introduced in the Lok Sabha, but it wasn't passed.
- The draft provisions included **punishment for accusing or identifying a woman as a witch, use of criminal force** against a woman, or torture or humiliation on the pretext of performing witchcraft.



- Section 302 (punishment for murder) of **IPC (Indian Penal Code)** takes cognisance of human sacrifice, but **only after the murder is committed**, likewise, Section 295A works to discourage such practices.
- **Article 51A (h) of the Indian Constitution makes it a fundamental duty for Indian citizens to develop the scientific temper**, humanism and the spirit of inquiry and reform.
- Other provisions under the **Drugs and Magic Remedies Act, 1954** also aim to tackle the **debilitating impact of various superstitious activities** prevalent in India.

What are the State-Specific Laws?

Bihar:

- Bihar was the **first State to enact a law** to prevent witchcraft, identification of a woman as a witch and eliminate torture, humiliation and killing of women.
- The Prevention of Witch (Daain) Practices Act came into force in October 1999.

Maharashtra:

- In 2013 Maharashtra enacted the **Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act**, which banned the practice of human sacrifice in the state. A section in the legislation specifically deals with claims made by 'godmen' who say they have supernatural powers.

Karnataka:

- Karnataka effected anti-superstition law in 2017 known as the **Karnataka Prevention and Eradication of Inhuman Evil Practices and Black Magic Act**.
- The Act comprehensively counters "inhumane" practices linked to religious rituals.

Kerala:

- Kerala does **not have a comprehensive Act** to deal with black magic and other superstitions.

What is the Need for Country-Wide Anti-superstition Act?

- Allowing the unhindered continuance of such practices **violates an individual's fundamental right to equality and right to life** under **Articles 14 and 21 of the Indian Constitution** respectively.
- Such acts also violate several provisions of various international legislations to which India is a signatory, such as the '**Universal Declaration of Human Rights, 1948**', '**The International Covenant on Civil and Political Rights, 1966**', and '**Convention on the Elimination of All Forms of Discrimination against Women, 1979**'.
- Only eight states in India have witch-hunting legislations so far.
- These include Bihar, Chhattisgarh, Jharkhand, Odisha, Rajasthan, Assam, Maharashtra and Karnataka.

In the absence of measures to tackle superstitions, unscientific and irrational practices such as **faith healing, quackery, and misinformation regarding medical procedures can also balloon up**, which can have severe detrimental effects on public order and health of citizens.

#SUPREME COURT BAN 'TWO FINGER TEST'

Recently, the **Supreme Court** has said that those conducting the 'two-finger test' on alleged rape victims will be held guilty of misconduct.

What is the Two-Finger Test?

- The two-finger test, carried out by a medical practitioner, **involves the examination of her vagina to check if she is habituated to sexual intercourse**.
- The practice is unscientific and does not provide any definite information. Moreover, such 'information' has no bearing on an allegation of rape.
- A woman who has been **sexually assaulted undergoes a medical examination** for ascertaining her health and medical needs, collection of evidence, etc.
- A handbook released by the **World Health Organization (WHO)** on dealing with sexual assault victims says, "There is no place for virginity (or 'two-finger') testing; it has no scientific validity."

Supreme Court's Observation:

- In 2004, a bench of Supreme Court stated that **"whether a woman is 'habituated to sexual intercourse' or 'habitual to sexual intercourse' is irrelevant** for the purposes of determining whether the ingredients of Section 375 (rape) of the IPC are present in a particular case.
- The court stated that it is **patriarchal and sexist to suggest that a woman cannot be believed** when she states that she was raped, merely for the reason that she is sexually active.
- In May 2013, the apex court had held that the **two-finger test violates a woman's right to privacy** and asked the government to provide better medical procedures to confirm sexual assault.
- Invoking the **International Covenant on Economic, Social, and Cultural Rights 1966** and the **UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985**, the apex court said **rape survivors are entitled to legal recourse that does not re-traumatise them or violate their physical or mental integrity and dignity.**
- In April 2022, the **Madras High Court directed the state to ban the two-finger test.**



What the Government's Guidelines say?

- After the 2013 **Justice Verma Committee** report on amendments to criminal law for a faster trial, and enhanced punishment in sexual assault cases, the Union Health Ministry brought out detailed guidelines for the medical examination of victims of sexual assault in early 2014.
- According to the guidelines **'two-finger test', must not be conducted for establishing rape/sexual violence.**
- The guidelines state that a **rape victim's consent (or her guardian's, if she is minor/mentally disabled) is necessary for any medical examination.** Even if the consent is not provided, the victim cannot be denied medical treatment.
- **However, these are guidelines and are not legally binding.**

#SUPREME COURT COLLEGIUM SYSTEM

Recently, the Union minister of Law and Justice criticized the **Supreme Court Collegium system**, saying that judges only recommend the appointment or elevation of those they know and not always the fittest person for the job. **Articles 124(2) and 217** of the Indian Constitution deal with the appointment of judges to the Supreme Court and High Courts.



What are a Collegium System and How Did It Evolve?

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

Evolution of the System:

First Judges Case (1981):

- It declared that the **"primacy" of the CJI's (Chief Justice of India) recommendation** on judicial appointments and transfers can be refused for **"cogent reasons."**
- The ruling gave the Executive primacy over the Judiciary in judicial appointments for the next 12 years.

Second Judges Case (1993):

- SC introduced the Collegium system, holding that **"consultation" really meant "concurrence"**.
- It added that it was not the CJI's individual opinion, but an institutional opinion formed in consultation with the two senior-most judges in the SC.

Third Judges Case (1998):

- SC on the President's reference (Article 143) expanded the Collegium to a five-member body, comprising the

CJI and four of his senior-most colleagues.

Who Heads the Collegium System?

- The SC collegium is headed by the **CJI (Chief Justice of India)** and comprises four other senior most judges of the court.
- A High Court collegium is led by the **incumbent Chief Justice** and two other senior most judges of that court.
- Judges of the higher judiciary are appointed only through the collegium system and the government has a role only after names have been decided by the collegium.

What are the Procedures for Judicial Appointments?

For CJI:

- The President of India appoints the CJI and the other SC judges.
- As far as the CJI is concerned, the outgoing CJI recommends his successor.
- In practice, it has been strictly by seniority ever since the supersession controversy of the 1970s.

For SC Judges:

- For other judges of the SC, the proposal is initiated by the CJI.
- The CJI consults the rest of the Collegium members, as well as the senior-most judge of the court hailing from the High Court to which the recommended person belongs.
- The consultees must record their opinions in writing and it should form part of the file.
- The Collegium sends the recommendation to the Law Minister, who forwards it to the Prime Minister to advise the President.

For Chief Justice of High Courts:

- The **Chief Justice of the High Court** is appointed as per the policy of having Chief Justices from outside the respective States.
- The Collegium takes the call on the elevation.
- High Court judges are recommended by a Collegium comprising the CJI and two senior-most judges.
- The proposal, however, is initiated by the outgoing Chief Justice of the High Court concerned in consultation with two senior-most colleagues.
- The recommendation is **sent to the Chief Minister, who advises the Governor to send the proposal to the Union Law Minister.**

#REMOVAL OF GOVERNOR

Recently, a political party called for a **proposal to remove the Tamil Nadu Governor.**

In recent years, the **bitterness between states and Governors has been largely about the selection of the party to form a government,** deadline for proving majority, sitting on Bills, and passing negative remarks on the state administration

Due to this, Governor is referred to with negative terms like an **agent of the Centre, Puppet and rubber stamps.**

**REMOVAL OF
GOVERNOR
IN INDIA**



How can the Governor be removed?

- Under **Article 155 and 156 of the Constitution**, a Governor is appointed by the President and holds office "during the pleasure of the President".
- **If this pleasure is withdrawn** before completion of the five-year term, the **Governor has to step down.**
- As the President works on the aid and advice of the Prime Minister and the council of ministers, in effect, the Governor **can be appointed and removed by the central government.**

Constitutional Provisions:

- There are **no provisions laid down in the Constitution** for the manner in which the Governor and the state

must engage publicly when there is a difference of opinion.

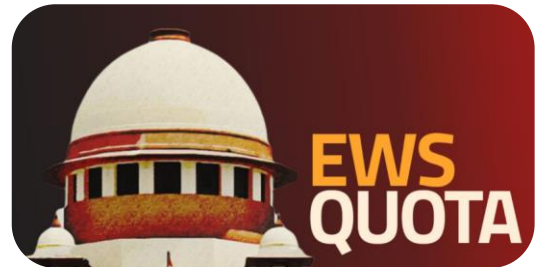
- The management of differences has traditionally been **guided by respect for each other's boundaries**.

Rulings by the Courts:

- **Surya Narain Choudhary vs Union of India (1981)**: The Rajasthan High Court held that the **pleasure of the President was not justiciable** as the Governor had no security of tenure and can be removed at any time by the President withdrawing pleasure.
- **BP Singhal vs Union of India (2010)**: The Supreme Court elaborated on the **pleasure doctrine**. It upheld that **"no limitations or restrictions are placed on the 'at pleasure' doctrine"**, but that **"does not dispense with the need for a cause for withdrawal of the pleasure"**.
The Bench held that the court will presume that the **President had "compelling and valid" reasons for the removal** but if a sacked Governor comes to the court, **the Centre will have to justify its decision**.

#SUPREME COURT UPHELD EWS QUOTA

Supreme Court has upheld the validity of the **103rd Constitutional Amendment** which provides 10% reservation for the **Economically Weaker Sections (EWS)** among forward castes in government jobs and colleges across India.



What is the Verdict?

Majority View:

- The 103rd constitutional amendment **cannot be said to breach the basic structure of the Constitution**.
- The EWS quota **does not violate equality and the basic structure** of the constitution. Reservation in addition to existing reservation does not violate provisions of the Constitution.
- The reservation is an **instrument of affirmative action by the state for the inclusion of backward classes**.
- Basic structure can't be breached by enabling the state to **make provisions for education**.
- Reservation is instrumental not just for inclusion of socially and economically backward classes into the society **but also to class so disadvantaged**. Reservations for EWS does not violate basic structure on **account of 50% ceiling limit fixed by Mandal Commission** because **ceiling limit is not inflexible**.
- 50% rule formed by the Supreme Court in the *Indira Sawhney judgment in 1992* was "not inflexible". Further, it had applied only to **SC/ST/SEBC/OBC communities** and not the general category.
- The Scheduled Castes, Scheduled Tribes and the backward class for whom the special provisions have already been provided in **Article 15(4), 15(5) and 16(4)** form a **separate category as distinguished from the general or unreserved category**.

Minority View:

- Reservations were designed as a powerful tool to enable equal access. Introduction of economic criteria and excluding SC (Scheduled Castes), ST (Scheduled Tribe), OBC (Other Backward Classes), saying they had these pre-existing benefits is injustice.
- The EWS quota may have a reparative mechanism to have a level playing field and the exclusion of SC, ST, OBC discriminates against equality code and violates basic structure.
- Permitting the breach of **50% ceiling limit would become "a gateway for further infractions and result in compartmentalization (division into sections)"**.

What is the 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.

#REGISTRATION OF BIRTH & DEATH (RBD) ACT,

Recently, the Union Home Ministry proposed **amendment to the Registration of Birth and Death (RBD) Act, 1969**.

The bill will be introduced in the winter session of parliament.



What are the Proposed Amendments?

- It has been proposed to **make birth certificates a mandatory document for almost every sphere of life** — admission in educational institutions, inclusion in the voter list, appointment in Central and State government jobs, issue of driving licence and passport.
- It shall be **mandatory for hospitals and medical institutions to provide a copy of all death certificates, stating the cause of death, to the local registrar apart from the relative of the deceased.**
- According to the Civil Registration System (CRS) report, **the registration level of births for the country increased to 92.7% in 2019 from 82.0% in 2010** and that of registered deaths increased from 66.9% in 2010 to 92.0 % in 2019.
- CRS is an **online system for registration of births and deaths** under the operational control of the RGI.

What is Registration of Birth and Death (RBD) Act, 1969?

- Registration of Births and Deaths in India is **mandatory with the enactment of RBD, Act 1969** and is done as per the place of occurrence of the event.
- Under the RBD Act, it is the **responsibility of the States to register births and deaths.**
- State governments have **set up facilities for registering births and deaths and keeping records.**
- A Chief Registrar appointed in every State is the executive authority for implementation of the Act.
- A hierarchy of officials at the district and lower levels do the work.
- The RGI, appointed under this Act, is responsible for coordinating and unifying the implementation of the RBD Act.

#NATIONAL POPULATION REGISTER

The **Ministry of Home Affairs (MHA)** has recently highlighted the need to update the **National Population Register (NPR)** database across the country. This is to incorporate the changes due to birth, death, and migration for which demographic and other particulars of each family and individual are to be collected.

What is NPR?

- NPR is a **database** containing a list of all **usual residents** of the country.
- A usual resident for the purposes of NPR is a **person who has resided in a place for six months or more** and intends to reside there for another six months or more.
- Its **objective** is to have a comprehensive identity database of people residing in the country.
- It is **generated through house-to-house enumeration** during the “house-listing” phase of the **Census**.
- The NPR was **first collected in 2010** and then **updated in 2015**.
- **Legal Backing:**
- The NPR is prepared under the provisions of the **Citizenship Act 1955** and the **Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003**.
- It is **mandatory for every “usual resident of India”** to register in the NPR.

NPR and NRC:

- According to Citizenship Rules 2003, **NPR is the first step towards compilation of a National Register of Citizens (NRC)**. After a list of residents is created (i.e., NPR), a nationwide NRC **could go about verifying the citizens from that list**.

- However, unlike the NRC, the **NPR is not a citizenship enumeration drive** as it records even a foreigner staying in a locality for more than six months.

What is the National Register of Citizens?

- **National Register of Citizens (NRC)** is a register prepared after the conduct of the Census of 1951 in respect of each village, showing the houses or holdings in a serial order and indicating against each house or holding the number and names of persons staying therein.
- The **NRC was published only once in 1951** and since then, it has not been updated for the nation until recently.
- It has been **updated in Assam only** for now and the **government plans to update it nationally** as well.



What is the Difference between NPR and Census?

- **Objective:** The census involves a **detailed questionnaire** - there were 29 items to be filled up in the 2011 census - aimed at **eliciting the particulars of every person**, including age, sex, marital status, children, occupation, birthplace, mother tongue, religion, disability and whether they belonged to any Scheduled Caste or Scheduled Tribe.
- On the other hand, the **NPR collects basic demographic data and biometric particulars**.

What is the Citizenship Act, 1955?

- **The Citizenship Act, 1955 provides various ways in which citizenship may be acquired.**
- It provides for **citizenship by birth, descent, registration, naturalisation and by incorporation of the territory into India.**
- In addition, it regulates the registration of **Overseas Citizen of India Cardholders (OCIs)** and their rights.
- An OCI is entitled to some benefits such as a multiple-entry, multipurpose lifelong visa to visit India.
- **CAA 2019: The Citizenship (Amendment) Act (CAA) was introduced in 2019 to amend the Citizenship Act, 1955.**
- It provides citizenship on the basis of religion to six undocumented non-Muslim communities (**Hindus, Sikhs, Buddhists, Jains, Parsis and Christians**) from Pakistan, Afghanistan and Bangladesh who entered India on or before 31st December, 2014.
- It exempts the members of the six communities from any criminal case under the **Foreigners Act, 1946 and the Passport Act, 1920.**
- The two Acts specify punishment for entering the country illegally and staying here on expired visas and permits.

#CONSTITUTION DAY OBSERVED ON 26TH NOVEMBER

Prime Minister of India launched **various new initiatives under the e-court project** including Virtual Justice Clock, JustIS mobile App 2.0, Digital court and S3WaaS Websites on Constitution Day, 26th November 2022.



What are the Initiatives under the E-Court Project?

- **Virtual Justice Clock** is an initiative to exhibit vital statistics of the justice delivery system at the Court level.
- **JustIS Mobile App 2.0** is a tool available to judicial officers for effective court and case management by monitoring pendency and disposal of cases.
- **Digital court** is an initiative to make the court records available to the judge in digitised form to enable the transition to Paperless Courts.
- **S3WaaS Websites** is a framework to generate, configure, deploy and manage websites for publishing specified information and services related to district judiciary.

What is Constitution Day?

- It is celebrated on **26th November** every year.
- It is also known as **National Law Day**.
- On this day in 1949, the **Constituent Assembly of India formally adopted the Constitution of India** that came into force on 26th January 1950.
- The Ministry of Social Justice and Empowerment on 19th November 2015, notified the decision of the Government of India **to celebrate 26 November as 'Constitution Day'**.

How was the Constitution Framed?

- In 1934, **M N Roy** first proposed the idea of a constituent assembly.
- Under the Cabinet Mission plan of 1946, elections were held for the **formation of the constituent assembly**.
- The Constitution of India is framed by the Constituent Assembly. The Constituent Assembly of India appointed a number of committees to deal with different tasks related to the framing of the constitution.
- The **8 major committees** and their heads are mentioned below:
 - **Drafting Committee** – B. R. Ambedkar
 - **Union Power Committee** – Jawaharlal Nehru
 - **Union Constitution Committee** – Jawaharlal Nehru
 - **Provincial Constitution Committee** – Vallabhbhai Patel
 - **Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas** – Vallabhbhai Patel
 - **Rules of Procedure Committee** – Rajendra Prasad
 - **States Committee (Committee for Negotiating with States)** – Jawaharlal Nehru
 - **Steering Committee** – Rajendra Prasad

What are the Key Facts about the Constitution of India?

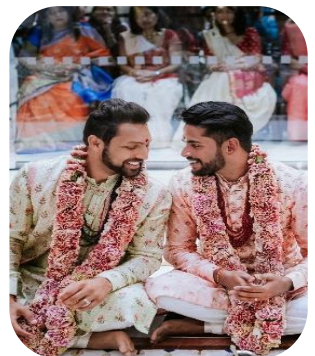
- World's **longest Constitution**.
- **Federal System** with **Unitary Features**.
- **Parliamentary Form of Government**.
- The framing of the Constitution took over **2 years, 11 months and 18 days**.
- The original copies of the Indian Constitution weren't typed or printed. They have been **handwritten** and are now kept in a helium-filled case within the library of the Parliament.
- **Prem Bihari Narain Raizada** had written the unique copies of the Constitution of India.
- Originally, the Constitution of India was **written in English and Hindi**.
- The **basic structure of the Indian Constitution** stands on the **Government of India Act, 1935**.
- The Constitution of India has also **borrowed some of its features** from a number of countries.

#LEGALITY OF SAME SEX MARRIAGE

Recently, the **Supreme Court** has issued notice to the Centre and the **Attorney General for India** on a plea by two gay couples seeking recognition of same-sex marriage under the **Special Marriage Act, 1954**.

As a result of several petitions, a two-judge bench headed by **Chief Justice of India D Y Chandrachud** issued the notice.

The non-recognition of same-sex marriage amounted to **discrimination that struck at the root of dignity and self-fulfillment of LGBTQ+ couples**.



What is the Legality of Same-Sex Marriages in India?

- The right to marry is **not expressly recognized** either as a **fundamental or constitutional right under the Indian Constitution**.
- Though **marriage is regulated through various statutory enactments**, its recognition as a fundamental right has only developed through judicial decisions of India's Supreme Court. Such declaration of law is binding on all courts throughout India under **Article 141 of the Constitution**.

What are the Views of Supreme Court on Same Sex Marriages?

- **Marriage as a Fundamental Right (Shafin Jahan v. Asokan K.M. and others 2018):**
- While referring to **Article 16 of Universal Declaration of Human Rights** and the Puttaswamy case, the SC held that the right to marry a person of one's choice is integral to **Article 21** of the Constitution.
- **Article 16 (2)** in the Indian constitution provides that there cannot be any discrimination on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them.
- The **right to marry is intrinsic to the liberty which the Constitution guarantees as a fundamental right**, is the ability of each individual to take decisions on matters central to the pursuit of happiness. Matters of belief and faith, including whether to believe are at the core of constitutional liberty.
- **LGBTQ Community Entitled to all Constitutional Rights (Navjet Singh Johar and others v. Union of India 2018):** The SC held that members of the **LGBTQ community "are entitled**, as all other citizens, to the full range of constitutional rights including the liberties protected by the Constitution" and are entitled to equal citizenship and "equal protection of law".

What is the Special Marriage Act (SMA), 1954?

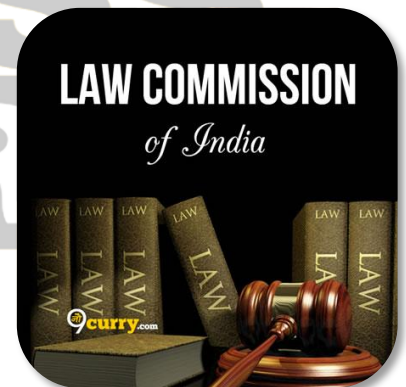
- Marriages in India can be registered under the respective personal laws Hindu Marriage Act, 1955, Muslim Marriage Act, 1954, or under the Special Marriage Act, 1954.
- It is the **duty of the Judiciary to ensure that the rights of both the husband and wife are protected.**
- The **Special Marriage Act, 1954 is an Act of the Parliament of India** with provision for civil marriage for people of India and all Indian nationals in foreign countries, irrespective of religion or faith followed by either party.
- When a person solemnises marriage under this law, then the marriage is not governed by personal laws but by the Special Marriage Act.

#LAW COMMISSION OF INDIA

Retired High Court Chief Justice Rituraj Awasthi has been appointed as the chairperson of the 22nd law commission of India which was constituted in 2020.

What is the Law Commission of India?

- The **Law Commission of India is a non-statutory body** constituted by the Government of India from time to time.
- **The first Law Commission of independent India was established in 1955** for a three-year term. The **first Law Commission** was established during the British Raj era in 1834 by the **Charter Act of 1833** and was chaired by Lord Macaulay.



Objectives:

- It works as an **advisory body to the Ministry of Law and Justice.**
- The Law Commission undertakes research in law and review of existing laws in India for making reforms therein and enacting new legislations on a reference made to it by the Central Government or suo-motu.

Composition:

- Apart from having a full-time chairperson, **the commission will have four full-time members, including a member-secretary.**
- Law and Legislative Secretaries in the Law Ministry will be the ex-officio members of the commission.
- It will also have not more than five part-time members.
- A retired Supreme Court judge or Chief Justice of a High Court will head the Commission.

What are the Important Recommendations of the Commission?

- **The Law Commission in its 262nd Report recommended abolition of the death penalty** for all crimes except terrorism-related offences and waging war against the state.
- Its report on **electoral reforms (1999) had suggested simultaneous Lok Sabha and state assembly elections** to improve governance and stability.
- **The Criminal Procedure (Identification) Act, 2022 which replace the Identification of Prisoners Act, 1920** was

also proposed by the Law Commission of India.

- The 21st Law commission in its recommendation in 2018 said that **Uniform Civil Code (UCC)** is “**neither necessary nor desirable at this stage**”.
- Now, the center has requested the 22nd Law Commission of India to undertake an examination of various issues relating to the same.

#FORCED RELIGIOUS CONVERSION

Recently, the Supreme Court has asked the Centre to step in and make very serious and sincere efforts to tackle the issue of Forced Religious Conversion.

What were Petition and the Court's Ruling?

- The petition sought a declaration that fraudulent religious conversion by “intimidation, threatening, deceivingly luring through gifts and monetary benefits” offends **Articles 14, 21, 25 of the Constitution**.
- The plea pointed out that in the 1977 ruling in the **Rev Stainislaus versus State of Madhya Pradesh case**, the Supreme Court had said: “It has to be remembered that **Article 25(1)** guarantees ‘**freedom of conscience**’ to every citizen, and not merely to the followers of one particular religion and that, in turn, postulates that there is no fundamental right to convert another person to one’s own religion.
- The SC, while hearing the petition sought directions to the Centre and states to **take stringent steps** to check such conversions.
- The court has said that **forced conversion is very dangerous** and may affect security of the nation and freedom of religion and conscience. This is because if a person purposely undertakes the conversion of another person to his religion, as distinguished from his effort to transmit or spread the tenets of his religion, that **would impinge on the freedom of conscience** guaranteed to all the citizens of the country alike.



What is Religious Conversion?

Religious conversion is the **adoption of a set of beliefs identified with one particular religious denomination** to the exclusion of others.

Thus "religious conversion" would describe the **abandoning of adherence to one denomination** and affiliating with another.

For example, Christian Baptist to Methodist or Catholic, Muslim Shi'a to Sunni. In some cases, religious conversion "marks a **transformation of religious identity** and is symbolized by special rituals".



What is the Status of Anti-Conversion Laws in India?

- The Indian Constitution under **Article 25** guarantees the freedom to profess, propagate, and practice religion, and allows all religious sections to manage their own affairs in matters of religion, subject to public order, morality, and health.

Existing Laws:

- There has been **no central legislation restricting or regulating religious conversions**.
- However, since 1954, on multiple occasions, **Private Member Bills** have been introduced in (but never approved by) Parliament, to regulate religious conversions.
- Further, in 2015, the Union Law Ministry stated that Parliament does not have the legislative competence to pass anti-conversion legislation.

Anti-Conversion Laws in Various States:

- Over the years, **several states have enacted 'Freedom of Religion'** legislation to restrict religious conversions carried out by force, fraud, or inducements.
- Orissa Freedom of Religion Act, 1967, Gujarat Freedom of Religion Act, 2003, Jharkhand Freedom of Religion Act, 2017, Uttarakhand Freedom of Religious Act, 2018, The Karnataka Protection of Right to Freedom of Religion Act, 2021.

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