

Polity

MAINS
365

Classroom Study Material 2024

August 2023-May 2024



POLITY AND GOVERNANCE

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1. INDIAN CONSTITUTION, PROVISIONS AND BASIC STRUCTURE

1.1. RESERVATION AT A GLANCE

Reservation

Reservation is a tool which gives **underprivileged equal representation and participation rights**, be it in governance or education.



Constitutional provisions related to reservation

- **Article 15(4): Reservation in educational institution** for Socially and Educationally Backward Classes (SEBCs), SCs and STs.
- **Article 15 (6) and 16(6):** 10% reservation for EWS for admission in educational institutions and public employment. **(103rd Amendment Act 2019)**
- **Article 16(4), 16(4A) and 16(4B):** Reservation in posts and services.
- **Article 46:** Promotion of educational and economic interests of SC, ST and other weaker sections of society.
- **Article 243D:** Reservation of Seats for SC and ST in Panchayats.
- **Article 330:** Reservation of seats for SC and ST in House of the People.
- **Article 332:** Reservation of seats for SC and ST in Legislative Assemblies of States.



Important Judgements of SC related to Reservation in India

- **Indra Sawhney v Union of India, 1992:**
 - Reservation under **Article 16(4)** should in no case exceed 50%.
 - There should be **no reservation in promotions**.
 - **Exclusion of creamy layer** from OBCs.
- **M. Nagaraj v. Union of India, 2006:** Laid down 3 conditions to be followed for implementing reservation in promotion i.e. State must show the
 - **Quantifiable data** on the backwardness of SCs/STs.
 - Facts about their inadequate representation in public employment.
 - Reservations are in the **interest of administrative efficiency**.
- **Jarnail Singh v Lachmi Narain Gupta, 2018:** **Reservation in promotions does not require state to collect quantifiable data** on backwardness of SCs and STs.
- **Janhit Abhiyan v Union of India, 2022:** SC upheld 103rd Constitution Amendment Act which provided for EWS reservation, based on economic criteria.

1.1.1. ECONOMICALLY WEAKER SECTIONS (EWS)

Why in news?

Supreme Court Constitutional Bench upheld validity of 103rd Constitutional Amendment in **Janhit Abhiyan v Union of India, 2022 case** which introduced 10% quota for EWS in education and public employment.

About EWS

- EWS reservation was granted based on recommendations of **Sinho commission** (submitted report in 2010).
- **103rd Amendment Act 2019** inserted **Articles 15(6) and 16(6)** in Constitution to provide reservation to EWS among **non-OBC and non-SC/ST sections** of population.
 - Act enables **both central and state governments** to provide reservations to EWS.
 - However, decision to implement reservations for EWS in state government jobs and educational institutions rests with state governments.
- EWS reservation is in **addition to existing reservation**.
- **Earlier, in Ram Singh and Ors. vs Union of India case, 2015**, SC suggested need for a **non-caste-based identification** of backward classes.

Concerns related to EWS quota

- **Purpose Misalignment:** Reservation is for social upliftment, not poverty alleviation.
- **Violates principle of equality:** It excludes OBCs, SC/ST communities from EWS.
- **Income Criteria Issue:** ₹8 lakh annual income criterion may excessively cover socially advanced classes.
- **Tool of populism:** Critics have raised **concerns about political implications of EWS quota**, highlighting its potential to exacerbate social tensions.

Road Ahead

- **Detailed Data and Guidelines:** For effecting identification of target groups
- **Evolving conceptual framework:** For affirmative actions to inclusively capture backwardness.
- **Expand Employment Opportunities:** Focus policies on increasing job opportunities for EWS.
- **Prioritize improving educational institutions:** To reduce reservation demand and ensure equal access for all students.

फाउंडेशन कोर्स सामान्य अध्ययन

प्रारंभिक एवं मुख्य परीक्षा 2025

इनोवेटिव क्लासरूम प्रोग्राम

- प्रारंभिक परीक्षा, मुख्य परीक्षा और निबंध के लिए महत्वपूर्ण सभी टॉपिक का विस्तृत कवरेज
- मौलिक अवधारणाओं की समझ के विकास एवं विश्लेषणात्मक क्षमता निर्माण पर विशेष ध्यान
- एनीमेशन, पॉवर प्वाइंट, वीडियो जैसी तकनीकी सुविधाओं का प्रयोग
- अंतर - विषयक समझ विकसित करने का प्रयास
- योजनाबद्ध तैयारी हेतु करेंट और इंटेड अप्रोच
- नियमित क्लास टेस्ट एवं व्यक्तिगत मूल्यांकन
- सीसैट कक्षाएं
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- निबंध टेस्ट सीरीज
- सीसैट टेस्ट सीरीज
- निबंध लेखन - शैली की कक्षाएं
- करेंट अफेयर्स मैगजीन

नोट: ऑनलाइन छात्र हमारे पाठ्यक्रम की लाइव वीडियो कक्षाएं अपने घर पर ऑनलाइन प्लेटफॉर्म पर देख सकते हैं। छात्र लाइव चैट विकल्प के माध्यम से कक्षा के दौरान अपने संदेह और विषय संबंधी प्रश्न पूछ सकते हैं। वे अपने संदेह और प्रश्न नोट भी कर सकते हैं और दिल्ली केंद्र में हमारे कक्षा सलाहकार को बता सकते हैं और हम फोन/मेल के माध्यम से प्रश्नों का उत्तर देंगे।

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1.2. CITIZENSHIP AT A GLANCE

Citizenship

Citizenship is an idea of exclusion as it **excludes non-citizens**. It is in the **Union List**. Constitution does **not define the term 'citizen'**.

Modes of Acquiring Citizenship: Birth, Descent, Naturalisation, Registration and Incorporation of the territory.



Constitutional provisions

- **Article 5:** Citizenship at the commencement of the Constitution.
- **Article 6:** Rights of citizenship of certain persons who have migrated to India from Pakistan.
- **Article 7:** Rights of citizenship of certain migrants to Pakistan.
- **Article 8:** Rights of citizenship of certain persons of Indian origin residing outside India.
- **Article 9:** Persons voluntarily acquiring citizenship of a foreign State not to be citizens
- **Article 10:** Continuance of rights of citizenship.
- **Article 11:** Parliament to regulate the right of citizenship by law.



Citizenship Amendment Act (CAA), 2019

CAA aims to give citizenship to target group of migrants even if they do not have valid travel documents as mandated in **Citizenship Act, 1955**.

- **Illegal migrants who fulfil four conditions** will not be treated as illegal migrants under Act. They are
 - **Hindus, Sikhs, Buddhists, Jains, Parsis or Christians**
 - from **Afghanistan, Bangladesh or Pakistan** they entered India on or before **December 31, 2014**
 - **not in certain tribal areas** of Assam, Meghalaya, Mizoram, or Tripura included in **Sixth Schedule**, or
 - not in areas under **"Inner Line" permit**, i.e., Arunachal Pradesh, Mizoram, and Nagaland.
- **Reduced period of naturalisation from 11 to 5 years** for above category of migrants.
- **Five grounds for cancelling OCI registration**
 - **Registration** through fraud
 - Showing **disaffection to the Constitution**
 - Engaging with the **enemy during war**
 - Necessity in the **interest of sovereignty of India**, security of the state or public interest, or
 - If within **five years of registration**, the OCI has been sentenced to imprisonment for two years or more

1.2.1. CITIZENSHIP (AMENDMENT) RULES, 2024

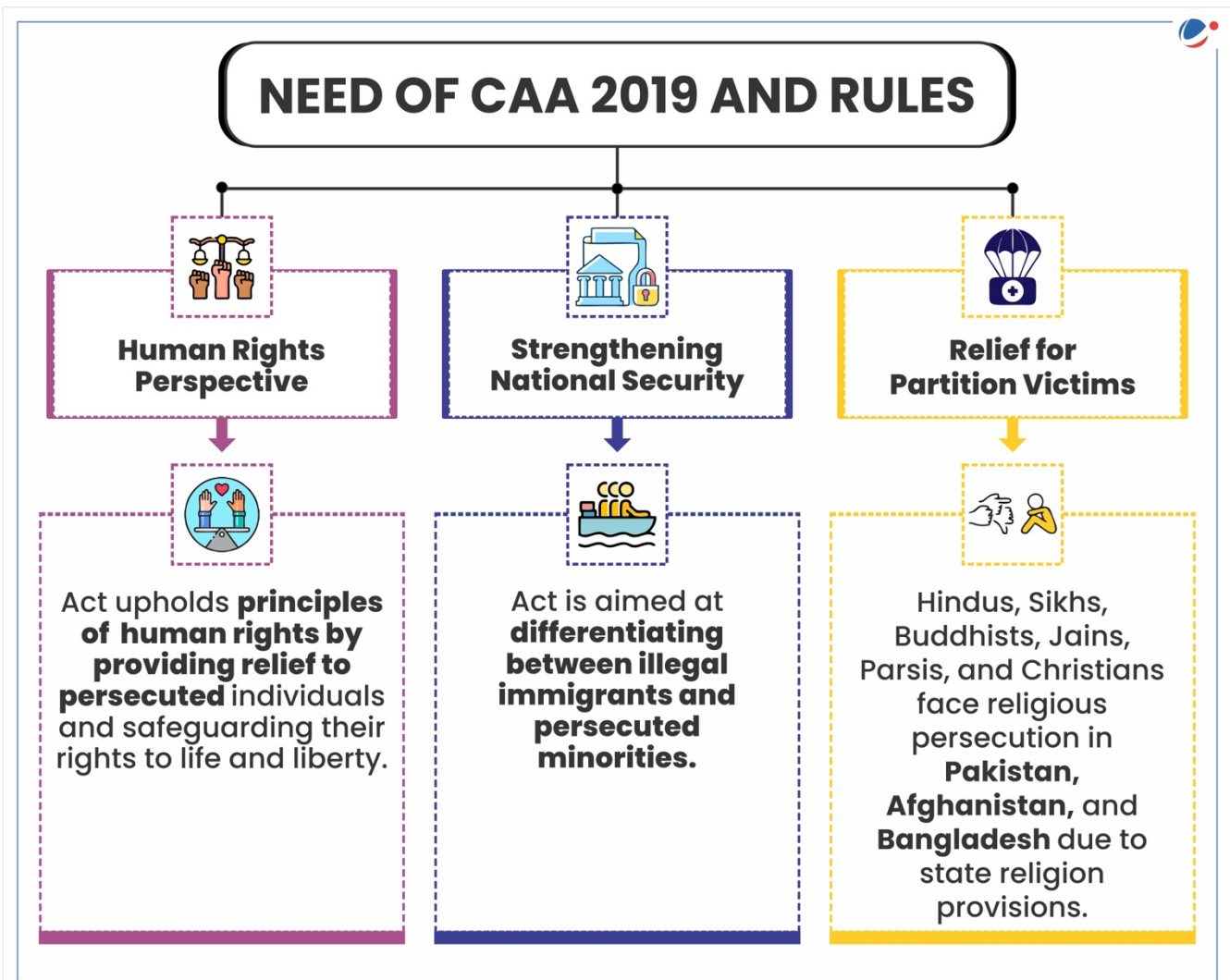
Why in the news?

Ministry of Home Affairs has amended **Citizenship Rules, 2009** and notified Citizenship (Amendment) Rules, 2024 to **enforce the Citizenship Amendment Act (CAA), 2019**.

Key highlights of Citizenship (Amendment) Rules, 2024

Eligibility	<ul style="list-style-type: none"> To apply for citizenship by registration/naturalization one must be: <ul style="list-style-type: none"> Person of Indian origin Married to an Indian citizen A minor child of an Indian citizen A person whose parents are registered as an Indian citizen Person or either of his parents was a citizen of Independent India Registered as an Overseas Citizen of India Cardholder
Other Qualifications for citizenship by naturalization	<ul style="list-style-type: none"> Present an affidavit verifying correctness of statements made in application and affidavit by Indian citizen to testify applicant's character. Adequate knowledge of one of the languages listed in 8th Schedule.
Proof of nationality	<ul style="list-style-type: none"> Applicants now can provide 20 different documents as proof of entry into India, including visas, residential permits, census slips, Aadhaar cards etc.
Renouncing citizenship of another country	<ul style="list-style-type: none"> Declaration saying citizenship of his country shall stand renounced irrevocably if application for Indian citizenship is approved.
Authority to which application may be made	<ul style="list-style-type: none"> Under Section 6B of Citizenship Act, 1955, application shall be submitted in electronic form to Empowered Committee through District Level Committee as notified by Central Government.

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Concern Raised

- **Classification of countries:** Migrants from neighbouring countries like Sri Lanka (Buddhism is state religion) and Myanmar (primacy to Buddhism) are not included.
- **Basis of migration:** There is no test stipulated under CAA Rules, 2024 to prove or scrutinize if the applicant was compelled to enter India because they faced persecution.
- **Constitutional Challenges:** Exclusion of Muslims, Jews and Atheists from CAA is said to be a **violation of Article 14 and principle of secularism.**
- **Classification based on date of entry:** CAA offers differential treatment to migrants based on their date of entry into India, i.e., whether they entered India before or after December 31, 2014.
- **Implication on external relations: Religious persecution of non-minority in Bangladesh** is one of the reasons for the amendment, potentially leading to tensions with Bangladesh.

Conclusion

While the Constitutional Amendment Act aims to address the concerns of persecuted minorities, it is imperative to address the raised concerns to ensure a comprehensive and inclusive approach.

1.3. HATE SPEECH

Why in the news?

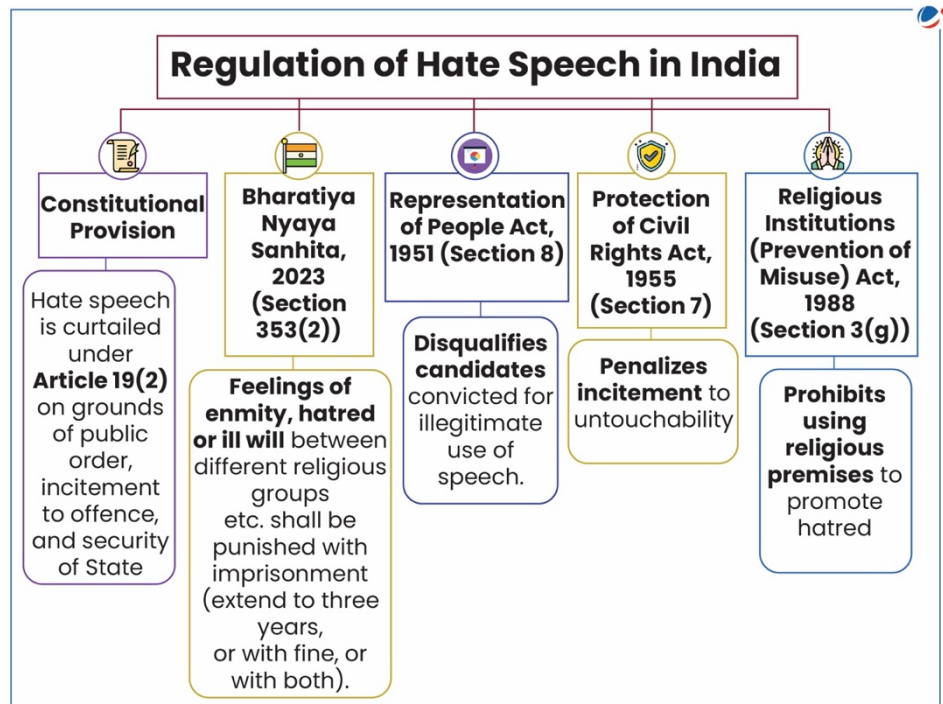
Recently, SC stressed the need for stakeholders to find a long-term solution to the problem of hate speech.

About Hate Speech

- An **incitement to hatred primarily against a group of persons** defined in terms of race, ethnicity, gender, sexual orientation, and religious belief (267th Report of Law Commission of India).
- **Not been defined in any law in India.** However, legal provisions in certain legislations prohibit select forms of speech as an exception to freedom of speech.

Issues Associated with Hate Speech

- **Clash with freedom of speech and expression:** Concerns are often raised that attempts to curb hate speech may silence dissent and opposition.
- **Used as Political instrument:** To mobilise support, polarise voters, and garner votes.
- **Lack of awareness and trust in law enforcement agencies:** Regarding where to access resources for responses to acts of hate.
- **Digital Age:** Lack of an appropriate IT Act or a regulatory mechanism for online content poses a hurdle to check Hate Speech through online platforms effectively.





Important Judicial Pronouncements in context of Hate Speech

- **Pravasi Bhalai Sangathan vs Union of India, 2014:** The Court recognizing the **negative impact of hate speech** referred the matter to Law Commission for in depth examination.
- **Shreya Singhal vs Union of India, 2015:** SC held that reasonable restrictions under **Article 19(2)** on free speech and expression may be imposed only if it incites **violence or leads to public disorder**.
- **Amish Devgan vs Union of India, 2020:** SC highlights the need to balance the **competing interests of free speech and prevent spread of hatred and communal disharmony**.

Global Measure against Hate Speech

- **Rabat Plan of Action (2012):** Emphasizes collective responsibility of State officials, religious leaders, media, and individuals to foster unity, tolerance, and prevent hatred.
- **UN Strategy and Plan of Action on Hate Speech (2019):** UN-wide initiative to tackle hate speech, offering a roadmap for supporting and complementing States' efforts.
- **UN Security Council Resolution 2686 (2023):** Encourages stakeholders to share good practices promoting tolerance, peaceful coexistence, and addressing hate speech and extremism as per international law.

Way ahead

- **Legal Definition of Hate Speech:** Law Commission proposed adding specific offences to IPC to criminalize hate speech, instead of subsuming it under existing sections concerning inflammatory acts and speeches.
- **Judicial Measures:** Cases of hate speech can be addressed **through Alternative dispute resolution to prevent victimisation**.
- **Non-Legal Measures to Address Hate Speech**
 - **Involvement of religious heads to build empathy across religious lines** to reduce communal tension.
 - **Strategic interventions** (in context of social media) to monitor dissemination of hate speech and mob mobilisation.
- **World countries should utilise international platforms** like United Nations to discuss and address challenge of Hate Speech and share best practices and tools to monitor hate speech effectively.

1.4. ABROGATION OF ARTICLE 370

Why in the news?

Recently, a Constitution Bench of SC upheld the validity of Union Government's 2019 decision to repeal special status of J&K under Article 370 of Constitution.

SC Judgement	Rationale
No Internal sovereignty	<ul style="list-style-type: none"> • Yuvraj Karan Singh's (successor to Maharaja Hari Singh) proclamation stated that provisions of Indian Constitution would govern relationship between J&K and India. • Apart from Article 1 and 370, court cited Section 3 of J&K Constitution which stated that J&K is and shall be an integral part of Union of India.
Nature of Article 370	<ul style="list-style-type: none"> • Temporary, transitional provision. • Dissolution of Constituent Assembly of J&K could not limit President's powers to abrogate Article 370.

<p>Upheld constitutionality of Presidential proclamations 2019</p>	<ul style="list-style-type: none"> • Presidential order of 2019 amended Article 367 and declared that expression ‘Constituent Assembly of the State’ in Article 370 (3) shall be read to mean ‘Legislative Assembly of the State’. • Consultation of state government was not essential under 370(3) as President had “unilateral” power to declare that Article 370 ceases to exist. • Presidential proclamation under Article 356 facilitated these decisions by empowering Union Government to act on behalf of State, eliminating the necessity to forge a political consensus at State level. <ul style="list-style-type: none"> ○ Additionally, Presidential proclamation suspended operation of provisos to Article 3, which mandated concurrence of J&K assembly to pass reorganization Act.
<p>Power of President during State Emergency</p>	<ul style="list-style-type: none"> • Relying on judgement in S R Bommai case, court held that ‘actions of President during a State emergency were open to judicial scrutiny’.
<p>Elections to Legislative assembly</p>	<ul style="list-style-type: none"> • ECI to conduct elections to Legislative Assembly of J&K by 30th September 2024.
<p>Truth and reconciliation commission</p>	<ul style="list-style-type: none"> • Set up by Centre, just like South Africa did in its post-apartheid era to investigate and report on violation of human rights by State and non-State actors in J&K and recommend measures for reconciliation.

Impacts of Abrogation of Article 370

- **Extension of rights:** All the rights enshrined in Indian Constitution and benefits of all Central Laws are available to people of J&K and Ladakh.
- **Ending exclusive property rights:** Enabled Centre to notify new land laws for J&K ending the exclusive rights of permanent residents over land.
- **Social Justice:** Provision given for SCs and STs in rest of the country is now available to community in J&K.
- **Constitutional status to local government:** Through application of 73rd and 74th Amendments of Constitution to J&K.
- **J&K no longer has its own flag, constitution, and its own penal code** (called Ranbir Penal Code).
- **Rights of women married to non-locals:** J&K Grant of Domicile Certificate (Procedure) Rules, 2020, allowing the spouse of a native woman married outside the Union Territory to apply for a domicile certificate.

Conclusion

With the judiciary upholding the abrogation of Article 370, it is important to foster economic development in J&K and ensure early elections for realization of democratic aspirations of people of J&K.

1.5. ARTICLE 142

Why in the News?

Recently, SC nullified the outcome of Chandigarh Mayor Election, **exercising its power under Article 142 (Enforcement of decrees and orders of SC)** of Constitution to ensure "complete justice".

Positive Impacts of Article 142	Issues with of Article 142
<ul style="list-style-type: none"> • Address urgent issue with legislative vacuum: In Bhanwari Devi and Ors. vs State of Rajasthan (2002), SC provided “Vishaka Guidelines” to address workplace sexual harassment, eventually resulting in “Prevention of Sexual Harassment Act, 2013”. 	<ul style="list-style-type: none"> • Subjectivity in definition: Court's wide discretion under Article 142 risks its misuse due to lack of standard definition for complete justice. • Blurs Judiciary-Legislature Lines: SC's intervention in Karnataka's

- **Strengthen Democracy: K.S. Puttaswamy (Privacy) vs. Union of India (2017)** established guidelines for safeguarding individual privacy.
 - **Provides Checks and Balances:** In 2014, SC canceled all but four of the 218 coal block allocations deemed illegal and arbitrary.
 - **Address civil rights and social justice issues:** In **Vineeta Sharma vs. Rakesh Sharma & Ors. (2020)**, SC addressed conflicting judgments on daughters' coparcenary rights under Hindu Succession Act.
 - **Promotes equality:** In 'The Secretary, Ministry of Defense vs. Babita Puniya' case, SC granted permanent commission to women officers in the Indian Army.
- political crisis with a floor test blurred judiciary-executive lines, sparking concerns of overreach (**S.R. Bommai vs. Union of India (1994)**).
- **Unaccountability:** Article 142 grants judiciary **immunity from easy scrutiny for its decisions**.
 - **Lack of Consistency:** Inconsistent legal rulings under Article 142 **complicate litigation planning and operations** for individuals and businesses.



Important Judicial pronouncements in context of Complete Justice

- **Indira Sawheny V. Union of India (1992):** Capped 50% limit on reservation and introduced **concept of creamy layer**
- **TMA Pai Foundation V. Union of India (2003):** State cannot make reservation of seats in admissions in **privately run educational institutions**
- **Ashok Kumar Thakur V. Union of India (2008):** Article 15 (5) added through **93rd amendment** was upheld by the SC.
- **Janhit Abhiyan case (2022):** Upheld the **EWS Reservation** granted though **103rd constitutional amendment**

Way Forward

- **Addressing Arbitrariness:** Judges should ensure that decisions made under Article 142 are **based on relevant facts and considerations**.
- **Defining 'complete justice':** Clear guidelines/principles can help mitigate misuse of power under the guise of achieving 'complete justice'.
- **Establishing a regulatory framework:** To prevent misuse of Article 142, decisions should be subject to scrutiny and accountability, ensuring that all relevant parties are heard before invoking Article 142.
- **Referral of all cases** invoking Article 142 to a Constitution Bench of at least five judges.

1.6. UNIFORM CIVIL CODE (UCC)

Why in the news?

President gave assent to the Uniform Civil Code Uttarakhand Bill 2024.

About UCC

- UCC provides for formulation of **one law for entire country, which would apply to all religious communities** in their personal matters like marriage, divorce, inheritance, adoption, and succession.
 - **Goa** is the only state where **a form of common civil code is in practice**, Portuguese Civil Code 1867.
- **Personal Laws in India:**
 - **Hindu Succession Act 1956** governs Hindus, Sikhs, Jains and Buddhists.
 - **Muslim Personal Law** governs Muslims.

- **Indian Succession Act 1925** applies to Christians, Parsis, and Jews.
- **Special Marriage Act** provides for solemnization of interfaith marriage as well as registration by a Marriage Officer.

Arguments for UCC	Arguments against UCC
<ul style="list-style-type: none"> • Constitutional Mandate under DPSP (Article 44). • Uphold principles of a secular state, where religious beliefs do not dictate civil matters. • Promote common citizenship and fosters National Unity by transcending religious and community divisions. • Ensures Gender Justice by eliminating discriminatory practices in personal laws, promoting gender equality and women's rights. • Simplifies Legal Procedures associated with marriage, divorce, inheritance, succession etc. • Update laws with modern principles to align with evolving society, promoting inclusivity and individual freedoms. 	<ul style="list-style-type: none"> • Undermine cultural and religious identities and infringe upon right to religious freedom guaranteed under Article 25. • Lacks consensus among communities may lead to social unrest and resistance. • Disrupt principles of cooperative federalism as several experts argued that UCC could encroach upon states' legislative competence.

Important Judicial pronouncements in context of UCC

- **Shah Bano Case (1985):** SC Highlighted need for UCC among religions.
- **Paulo Coutinho vs Maria Luiza Valentina Pereira (2019):** SC Highlights need for uniform laws for consistency.

Important committee recommendations in context of UCC

- **Law Commission (2018):** No UCC needed now, amends existing laws.
- **Law Commission of India (2022):** It seeks public and religious input on UCC.

Way forward

- **Government should seek consensus:** From all stakeholders, including religious leaders and community representatives to address concerns.
- **Piecemeal approach:** Like marriage age amendment, can foster internal reform within religious frameworks.
- **Review existing personal laws:** To align UCC with principles of justice, equality, and non-discrimination, ensuring fairness for all.

1.7. LADAKH DEMANDS SIXTH SCHEDULE

Why in the news?

The people of Ladakh are protesting for Ladakh **to be recognized as a tribal area under Sixth Schedule.**

Provisions of the Sixth schedule

- **Empowers Governor** to create **Autonomous District Councils (ADCs)** and **Autonomous Regional Councils (ARCs)** in four states (Assam, Meghalaya, Tripura, and Mizoram).
- Conferred certain executive, Legislative and Judicial powers to ADCs and ARCs.



Benefits Ladakh will get if included in Sixth Schedule

- **Address Local Issues:** Specific to Ladakh like environmental protection, tourism management, and sustainable development practices.
- **Safeguard Tradition:** Cultural heritage and traditional customs would be recognized and legally protected.
- **Resource Management:** ADCs would have greater control over **mineral resources within their jurisdiction**, allowing them to manage them more effectively.
- **Increased reservation:** Enhance reservation in government jobs and educational institutions for Ladakhis.
- **Safeguard land and forest rights:** Protect tribal communities (Balti, Beda, Drokpa etc) land and forest rights to prevent alienation.

Issues in awarding Sixth Schedule Status to Ladakh

- **Financial Viability:** Establishing and running ADCs requires significant financial resources.
- **Inter-Community Dynamics:** Balancing the interests of Buddhist majority in Leh and Muslim majority in Kargil within framework of Sixth Schedule.
- **National Security Considerations:** Ladakh's sensitive border location raises concerns that **increased autonomy might complicate coordination with central government** on security matters.

Conclusion

Initiating a dialogue involving Ladakhi representatives, political leaders, and central government is crucial. The key lies in finding a solution that respects Ladakh's unique identity and aspirations while considering broader national framework. Open communication and a willingness to explore alternatives are essential for achieving a positive outcome.

1.8. NINTH SCHEDULE

Why in news?

Recently, Bihar seeks addition of caste-based laws in ninth schedule.

About Ninth Schedule

- It contains a **list of central and state laws that cannot be challenged in court**. It was added by **First Constitutional Amendment Act, 1951** by inserting **Article 31B** (retrospective in nature).
- **Article 31B:** None of the acts/regulations mentioned in Ninth Schedule shall be considered to be void on ground that they are inconsistent with any rights.

Criticisms of Ninth Schedule

- **Against fundamental rights:** As it provides complete **blanket protection to Central and State laws**.
- **Against principle of Judicial review:** It deprives the courts power to examine the constitutionality of Acts.
 - In **L. Chandra Kumar case 1997**, SC affirmed that **power of judicial review** (HCs (Article 226) and SC (Article 32)) is an **essential feature of Constitution**.
- **Outlived its utility:** Originally aimed to safeguard land reform laws from judicial scrutiny. Over the time, it has **expanded to cover unrelated laws** related to land reforms, fundamental rights, and DPSPs.
- **Tool to realise political gains:** For instance, **Tamilnadu law granting 69% reservation** is included in Schedule.



Important Judicial Pronouncements in context of Ninth Schedule

- **Waman Rao V Union of India, 1981:** SC held that amendment to Constitution which was made before 24th April 1973 is valid (as per Kesavananda Bharati judgement and evolution of Basic Structure doctrine).
- **IR Coelho Vs State of Tamilnadu, 2007:** Constitution bench ruled that Ninth Schedule cannot be challenged for violating fundamental rights, but can be challenged for violating basic structure of Constitution.

Conclusion

Ninth Schedule was put up as a constitutional device to safeguard land reform laws, which were significant at that point of time. Further, there is need to implement a system for periodic review of laws included in the 9th Schedule to ensure they remain relevant and necessary. Further, out-dated or unjustified laws could be removed through a structured and transparent process.

1.9. DELIMITATION COMMISSION

Why in the news?

The Women's Reservation Act and population disparity between southern and northern states, has triggered an intense debate about the expected **delimitation** or redrawing of **constituencies** after 2026.

About Delimitation

- Act of **redrawing boundaries of Lok Sabha and Assembly seats to represent changes in population.**
- Responsibility of **delimitation is assigned to a high-power body known as Delimitation Commission (Boundary Commission).**
- In India, such Delimitation Commissions have been constituted 4 times – in **1952, 1963, 1973 and 2002.**
- In 2002, **84th Constitutional Amendment** was used to **freeze delimitation process for Lok Sabha and State assemblies till at least 2026.** As a result, Delimitation Commission could not increase total seats in Lok Sabha or Assemblies. It may be done only after 2026.



Constitutional Provisions related to Delimitation

- **Article 82:** Parliament enacts a **Delimitation Act after every Census** which establishes a delimitation commission.
- **Article 170:** States get divided into territorial constituencies as per Delimitation Act after every Census.

About Delimitation Commission

- **Provides equal representation for equal population segments, and fair division of geographical areas.**
- **Appointed by President of India** and works in collaboration with ECI. Commission has **three ex-officio members:**
 - a serving or retired judge of Supreme Court as chairperson,
 - Chief Election Commissioner (CEC) or Election Commissioner nominated by CEC and

- State Election Commissioner of concerned state.
- Its orders have the force of law and cannot be called in question before any court.

Issues arising out of unequal representation

- **Decreased Voice of States with Population Control:** States like those in the South, which have effectively controlled population growth, face a diminished influence in national decision-making.
- **Disenchantment in Underrepresented States:** States facing a decrease in representation may foster feelings of disenchantment among their population.
- **Dilute “One Citizen One Vote” principle:** For example, in UP an MP on average represents around 2.53 million people, compared to 1.84 million in Tamil Nadu, indicating a quantitative dilution.

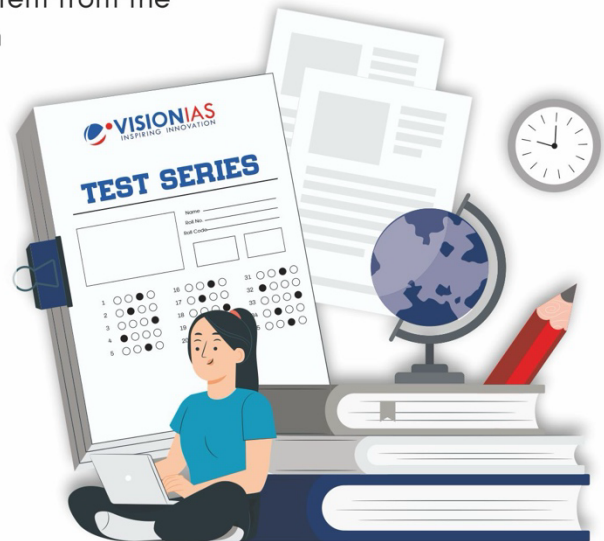
Conclusion

Delimitation should be carried out after every census to prevent extensive changes and ensure the value of each elector's vote remains relatively steady. A consensus is needed on addressing the problems that are likely to arise from this process, including unequal representation and disenchantment among affected populations.

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2. ISSUES AND CHALLENGES PERTAINING TO THE FEDERAL STRUCTURE

2.1. FEDERALISM AT A GLANCE

Federalism

Federalism is a system of government in which power is divided between a central authority and various constituent units of country. **India's federalism is asymmetric in nature.**

Key features

- **Required consent of both levels** for changing fundamental provisions of constitution.
- **Financial Autonomy** of each level with designated sources of revenue.
- **Dual objectives** of promoting unity and regional diversity
- Different tiers of government govern same citizens and **Each Tier has its own jurisdiction in specific matters of legislation, taxation and administration.**
- **Constitutionally guaranteed existence and authority** of each tier.

Evolution of Federalism in India

- **Government of India Act, 1935** first time introduced federal concept in India.
- However, **framers of Constitution avoided full federalism at independence, fearing disunity and secessionist tendencies.**
- **Post-independence**, India's federalism has evolved in phases:
 - **First Phase: One-party Federalism (1952-1967):** Consensual national and state leadership.
 - **Second Phase: Expressive Federalism (1967-1989):** Centre-state conflicts
 - **Third Phase: Multiparty Federalism (1989-2014):** Rise of coalition politics
 - **Fourth Phase (2014-2024):** Dominant Party Federalism

<h3>Trends which showcase weakening federalism</h3> <ul style="list-style-type: none">• Increased Centralizing Tendencies: Changes in Union, State, and Concurrent lists; Farm laws objections.• Regionalist Demands: Rising regional identities leading to secessionist movements like greater nagalim.• Misuse of Governor's office.• Fiscal Relations: Significant changes due to GST introduction.	<h3>Trends which showcase counterbalancing</h3> <ul style="list-style-type: none">• Financial devolution reforms for fairer resource distribution.• Enhanced federal character with NITI Aayog and GST Council creation.
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Reform needed to strengthen the federal structure

- **Committee's Suggestions: Sarkaria and Punchhi Commission** recommendations:
 - Make the Governor's office apolitical and revise removal terms
 - Extend Inter-State Council's mandate beyond advice.
 - Set guidelines to prevent misuse of President's veto
 - Include states in international agreements.
- **Relook the distribution of powers** under seventh schedule of Constitution.
- **Effective utilisation of institutions** like NITI Aayog and ISC to build State-Centre trust.
- **Increase fiscal devolution** to state and local governments.

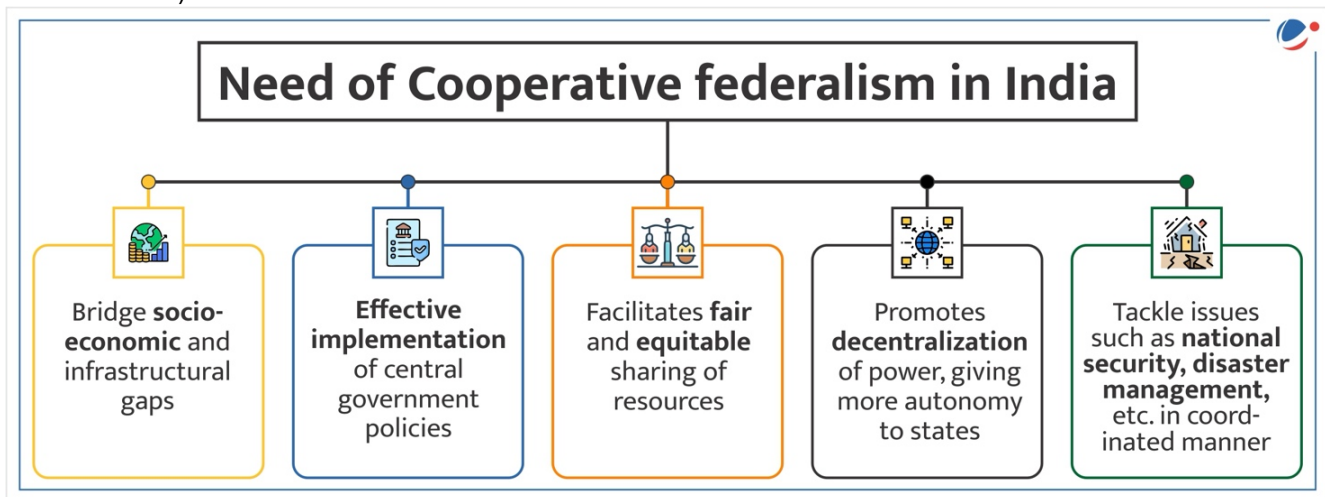
2.1.1. COOPERATIVE FEDERALISM

Why in news?

Prime Minister recently underlined the importance of cooperative federalism in India.

About Cooperative Federalism

- It is the **horizontal relationship between union and states** and shows neither is above the other.
 - It envisages that national and state agencies **undertake government functions jointly** rather than exclusively.
- **NITI Aayog** acts as a platform to **promote cooperative federalism** in India.
 - Its roles include Collaborative policymaking, Center-state dialogue, etc.
- **Constitutional provisions to promote Cooperative Federalism**
 - 7th Schedule demarcates central, state and concurrent lists.
 - Article 312 (All India Services).
 - Article 263 (Inter- State Council to discuss common interests of Centre and States).
 - Article 280 (Finance Commission recommending distribution of financial resources between Union and States).



Steps taken to foster Cooperative federalism in India

- **Share of states in central tax revenue has been increased** to 41% (15th Finance Commission) from 32% (13th Finance Commission).
- **States have freedom to plan their expenditure** based on their own priorities.
- **Restructure the existing CSS Schemes from 142 into 66 Schemes**, including Flagship Programmes.
- **Financial sector bailout programme** under Ujwal DISCOM Assurance Yojana (UDAY) scheme.

Challenges to cooperative federalism in India

- **Over-Centralization of power:** For example, during COVID pandemic, Disaster Management Act was used by centre to effectively bypass States and assume complete control.
- **Inter-state river-water disputes:** e.g. Cauvery dispute between Karnataka, Tamil Nadu.
- **Diversity:** Diverse nature of India **necessitates tailored policymaking, further complicating cooperation** between central and state governments.
- **Inadequate consultation with state:** For example, controversy over new farm laws which are opposed by several states.

Way forward to strengthen cooperative federalism in India

- **Transformation:** Expand the Inter-State Council's structural and functional scope to function as a quasi-judicial 'Collaborative Council'.

- **Constitutional Status:** Grant constitutional status to NITI Aayog to address issues and challenges in cooperative federalism.
- **Financial Allocation:** Transfer financial allocation to a permanent Finance Commission to ensure a balanced, transparent, and distortion-free system of inter-governmental fiscal relations.
- **Sharing best practices:** Among States on contentious issues like land, labour etc. Example: Karnataka's "Bhoomi" project to digitize land record.

2.1.2. FISCAL FEDERALISM

Why in the news?

Recently, some states have moved the Supreme Court against the Centre for disputes over sharing of financial resources by the Central Government.

About Fiscal Federalism

- Refers to how **federal, state, and local governments share funding and administrative responsibilities within India's federal system.**
- Fiscal federalism is **often associated with three broad principles:**
 - **Fiscal Equivalency:** It requires a **separate jurisdiction for each public service** which should include the set of individuals that consume it.
 - **Decentralization theorem:** Each public service should be provided by the jurisdiction having **control over the minimum geographic area** that would internalise the benefits and costs of such provision.
 - **Principle of Subsidiarity:** Functions should be performed at the **low level of government**, implying hierarchy.



Constitutional Provisions defining India's Fiscal Federalism Arrangement

- **Seventh Schedule:** Tax Bases Delineated in Union and State Lists (**Article 246**)
- **Distribution of Revenue:**
 - **Article 269:** Taxes levied and collected by Centre, assigned to states.
 - **Article 269-A:** GST in inter-state trade.
 - **Article 270:** Taxes distributed between Union and states per Finance Commission.
- **Grants-in-Aid:** To states by Centre as per **Article 275**.
- **Borrowings:**
 - **Union** can borrow domestically or internationally (**Article 292**).
 - **State** can only borrow domestically (**Article 293**).
- **Finance Commission** constituted to **adjudicate sharing of resources** between Union and States (**Article 280**).

Issues between Centre-State Financial Relations

- **Borrowing Limits:** Restricted by the Centre to 3% of Gross State Domestic Product (GSDP) for 2023-24, based on 15th Finance Commission recommendations.
- **Vertical Fiscal Imbalance:** The Union government retains tax-raising powers (e.g., income tax, CGST), while states can only tax goods and services consumption (SGST) post-GST.
- **Developmental Expenditure:** Combined developmental expenditures by states increased from 8.8% of GDP in 2004-05 to 12.5% in 2021-22.
- **Non-sharing of Cess Revenue:** Cess and surcharge collections rose by 133% from 2017-18 to 2022-23, making up 25% of total taxes but excluded from state distribution.

- **Decline in Grants-in-Aid:** Grants to states decreased from Rs. 1,95,000 crores in 2015-16 to Rs. 1,65,000 crores in 2023-24.
- **Centrally Sponsored Schemes:** States finance a higher share of expenditure under these schemes, despite having no role in their design.

Way Forward

- **Role of 16th FC:** There needs to be a negotiation with 16th FC for specific-purpose transfers to **tackle State-specific issues** like **demographic transition, inward and outward migration and climate change crisis.**
- **Reviewing Off-budget borrowings** practices of Union and States.
- **Addressing horizontal imbalance:** Each state should receive a minimum fiscal resource value, ensuring rich states get a fair share, and a ceiling is set for poorer states.
- **Major principles that should guide fiscal federalism in India include:**
 - Centre and states should be **financially autonomous.**
 - Both should have enough funds for legitimate expenses.
 - Receipts should grow with expenditure needs.

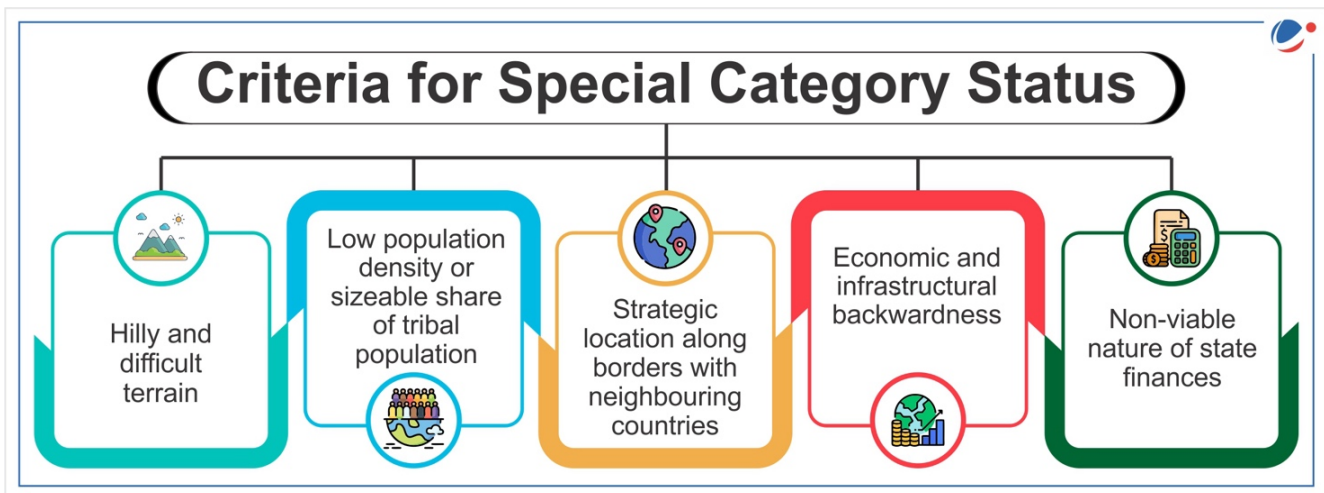
2.1.3. SPECIAL CATEGORY STATUS (SCS)

Why in the news?

Special Category Status demand by Bihar and Andhra Pradesh gained momentum after 2024 Lok Sabha Elections results.

About Special Category Status (SCS)

- SCS was a **classification granted by Centre to assist in development of States** that faced geographical or socioeconomic disadvantages.
 - **First introduced in 1969** on recommendations of **Fifth Finance Commission (FC).**
 - SCS States used to **receive grants based on Gadgil-Mukherjee formula.**
- **Constitution does not include any provision for categorisation** of any State in India as an SCS state.
 - However, **special provisions are available** to as many states that have been listed **under Articles 371, 371-A to 371-H, and 371-J.**
- Following the **recommendations of 14th FC, SCS have ceased to exist** and thus **no SCS has been granted to any State.**
 - Current special funding pattern to Northeastern and Himalayan States, etc. is on account of **recommendations of Sub-Group of Chief Ministers** and not as per their SCS.



Benefits associated with Special Category Status

- **Funding:** In SCS States, **Centre-State funding** of centrally sponsored schemes (CSS) was divided in **90:10**, far **more favourable than 60:40 or 80:20 splits** for general category States.
- **Continuity of unspent money:** In case of unspent money, **states with SCS have provision to carry it forward** for next financial year.
- **Incentives:** E.g. **Concession in customs and excise duties, income tax rates and corporate tax rates** to attract investments to set up new industries etc.

Concerns associated with idea of Special Category Status (SCS)

- **Lack of consensus on SCS criteria:** E.g. SCS granted to Uttarakhand, and denied to Jharkhand and Chhattisgarh despite being below Uttarakhand on most growth parameters.
- **Inter-State Disparities:** Granting special status to certain states creates inter-state disparities, leading to uneven economic and social structures.
- **Encourages fiscal indiscipline:** Debt-swapping and Debt-relief schemes indirectly encourage states to spend beyond their servicing capacity, creating long-term liabilities.
 - **For example**, outstanding guarantee as a percentage of GSDP is 20% in J&K, 10% in Himachal Pradesh.
- **Fiscal Burden:** For SCS, Centre pays 90% of funds which increases fiscal burden on Centre.

Way forward

- **Reduce Dependency of SCS states on central assistance:** By promoting local industries, infrastructure creation and diversification of the economy etc.
- **Reviewing the criteria to determine SCS states:** For example, SCS status can be **revised to include State's socio-economic backwardness along with low resource base etc.**
- **Inter-State Collaboration and knowledge sharing among states:** To address the challenges and further strengthen cooperative federalism.

2.2. S.R. BOMMAI JUDGEMENT (1994)

Why in the news?

S. R. Bommai (SRB) v. Union of India (UOI), 1994 Judgment of the Supreme Court (SC) completes 30 years.

Key Questions in SRB's Case

- One, whether **proclamations of President's Rule were justiciable** (liable to judicial review court).
- Two, **scope and limits** of the President's powers under Article 356.
 - Constitution is **silent on what constitutes a failure** of constitutional machinery **making the provision vulnerable to misuse.**
- Three, **what are the consequences if Court hold the proclamation of President's Rule invalid** even after Parliament has given its approval.

Bommai judgement and Key Principles laid down:

Judicial Review	<ul style="list-style-type: none"> • Presidential proclamation under Article 356 is subject to judicial review on substantial grounds. • SC or HC can strike down Proclamation if it is mala fide. • No restriction on court from examining the material based on which President formed his satisfaction.
Limits of President's powers	<ul style="list-style-type: none"> • President should exercise the power only after his proclamation is approved by both Houses of Parliament. • Till then, President can only suspend the Legislative Assembly by suspending the provisions of Constitution relating to Legislative Assembly.

Consequences of invalidation of President’s Rule	<ul style="list-style-type: none"> • Council of Ministers and Legislative Assembly should stand restored. • Validity of acts done, orders passed and laws, made during period of operation of proclamation would remain un-effected.
Other Key observations	<ul style="list-style-type: none"> • Laid down supremacy of floor test in determining the support enjoyed by party in power. • Article 356 use was justified only when there was a breakdown of constitutional machinery and not that of administrative machinery. • Enlisted where the use of exercise of power under Article 356 could be proper or improper (based on Sarkaria Commission report (1988)). <ul style="list-style-type: none"> ○ Proper: Constitutional direction of Central government is disregarded by state government (Art 365). ○ Improper: State government is not given prior warning to rectify itself except in case of extreme urgency leading to disastrous consequence. • Secularism, democracy and federalism are essential features of Constitution and part of its basic structure.

Impact of S.R. Bommai Judgment

- **Restrictive use of Article 356:** Between **1995- 2021**, President’s Rule imposed **only 29 times or little more than once a year** compared to **100 times or average of 2.5 times a year** (January 1950- March 1994).
- **Strengthen Federalism:** **Article 356 proclamations justiciable** without undermining the President’s discretionary powers, thus **strengthening India’s federalism**.


Conclusion

Post-1994, Bommai case was cited several times, making it one of the most quoted verdicts in India’s political history. As India continues to navigate the complex dynamics of centre-state relations and role of secularism in governance, principles established in SRB case remain vital in upholding constitutional ideals of federalism and pluralism.

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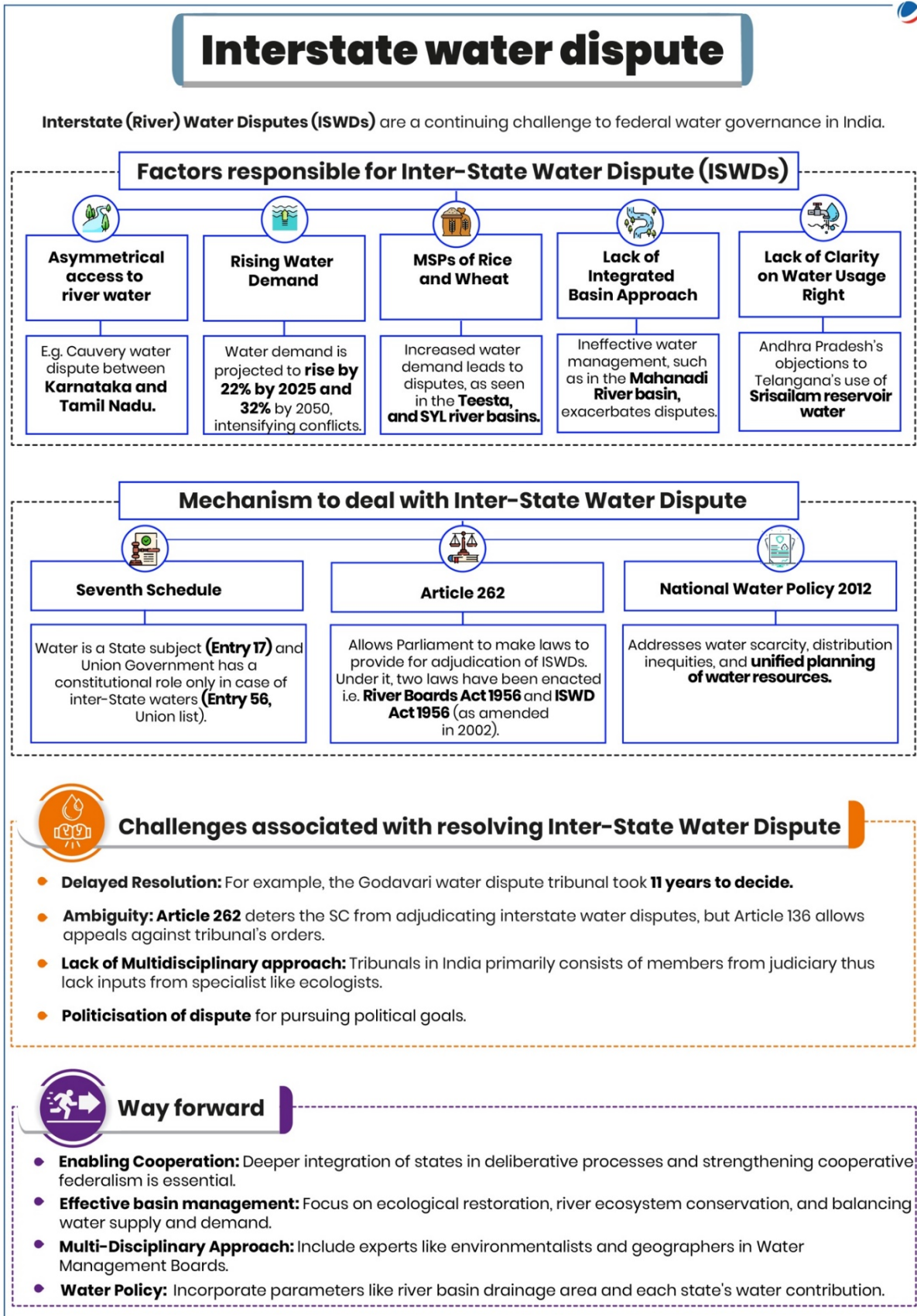
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2.3. INTER-STATE WATER DISPUTE AT A GLANCE



MAINS 365 - POLITY AND GOVERNANCE

2.4. ROLE OF GOVERNOR

Why in the News?

Recently, Kerala, Tamil Nadu and Punjab moved the Supreme Court against their respective Governors over the pending bills.

Constitutional Provisions for Governor

- **Provisions regarding bills:** Governor Assent is necessary for a bill to become a law (**Article 200**).
- **Reserving bill for President:** Such reservation is **obligatory**, that is, where bill passed by state legislature endangers the position of state HC. In addition, governor can also reserve the bill if it is of following nature:
 - Ultra-vires, i.e. against provisions of Constitution, Opposed to DPSP; Against larger interest of country; of grave national importance etc.
- **Discretionary powers:** Governor is bound by aid and advice of CoM except when required to exercise his/her functions in his/her discretion (**Article 163**).

Various issues concerning Governor's role

- **Pending decisions:** Delays in assent to legislations and crucial appointments leads to a constitutional deadlock and disrupts parliamentary democracy.
- **Administrative inefficiency:** Friction between Governor and state government, especially where there is political difference sometimes leads to deadlock in administrative decisions and appointments.
- **Burden on judiciary:** Disputes arising from the Governor's exercise of discretionary powers or their actions regularly leads to legal challenges and interpretations.



Important Judgements Pronouncements in context of Office of Governor

- **Shamsher Singh Case (1974):** Governor does **not exercise their discretionary powers while withholding assent or returning a Bill** to State Legislature. They are required to **act as per advice of CoM**.
- **Nabam Rebia case (2016):** If a governor exercised his discretion beyond his jurisdiction or power, it would **fall under subject matter of judicial review**.
- **State of Punjab Case (2023):** If a Governor decides to withhold assent to a Bill, then he/she has to return the bill to the legislature for reconsideration. Such bill **cannot be kept with Governor indefinitely**.
- **Tamil Nadu Governor case (2023):** SC stated that Governor cannot refer bills to President after the Assembly has **re-enacted the Bills** following the Governor's declaration of withholding the assent.

Way Forward - Recommendations of different commissions

- **Sarkaria Commission:**
 - Governors should rarely use discretion, only if a Bill contravenes Constitutional provisions, and reserve it for Presidential consideration.
 - Governor appointee should be a **detached outsider** and a person of eminence in some walks of life.
 - Governor should **not act as an agent of President** and should not be removed from office merely on ground that the new government at Centre desires a Governor of its choice.
- **Punchhi Commission:**
 - Governor should take a decision with respect to a Bill presented for his/her assent within a period of six months.
 - Governors are expected to be **independent**, and to act in a manner devoid of any political consideration.



- Governor should have a **fixed term of five years**, and removal should be through a resolution passed by the state legislature.
- **Venkatachaliah Commission:** Governor should make use of advice of CoM in the day-to-day administration of state.

2.5. GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) ACT 2023

Why in the news?

The Parliament passed the Government of National Capital Territory of Delhi (GNCTD) (Amendment) Act 2023 which repeals National Capital Territory of Delhi (NCTD) (Amendment) Ordinance 2023.

Key provisions of the Act

- **Establishes National Capital Civil Services Authority (NCCSA)** to make **recommendations to LG of Delhi on certain matters** related to services.
 - NCCSA consist of Chief Minister of Delhi as chairperson, Principal Home secretary and chief secretary of Delhi government as a member.
- **Functioning of NCCSA:** All its decisions will be based on a **majority vote of members present and voting.**
- **Powers of LG:** Matters where LG may act solely on his discretion are:
 - Matters **outside legislative competence of Delhi Legislative Assembly** but which have been delegated to LG, or
 - Matters where he/she **is required by law to act in his discretion** or exercise any judicial or quasi-judicial functions.
- **Primacy to LG: Expands discretionary role** of LG by giving him powers to **approve recommendations of the NCCSA** or return them for reconsideration.
 - In the case of a **difference of opinion** between LG and NCCSA, LG's decision will be final.
- **Disposal of matters to LG by ministers of Delhi Government**, through Chief Minister and Chief Secretary, for his/her opinion prior to the issue of any order. These include proposals affecting:
 - Peace and tranquillity of Delhi; Summoning, prorogation, and dissolution of the Legislative Assembly, etc.

Key issues with the Act

- **Powers to central government:** Central government controls officer transfer and posting in Delhi, deviating from SC's 2023 judgment in Govt. of NCT of Delhi vs. Union of India.
 - NCCSA meetings can be held without the Chief Minister if two members are present.
- **Triple Chain of Accountability:** Conferring powers over transfer and posting of officers to NCCSA may **break triple chain of accountability.**
 - According to SC, democratic government rests on a triple chain of accountability:
 - ✓ Civil servants are accountable to ministers,
 - ✓ Ministers are accountable to legislatures, and
 - ✓ Legislatures are accountable to electorate.
- **Violates collective responsibility:** Department secretaries will bring certain matters directly to LG, Chief Minister and Chief Secretary without consulting the concerned minister.
- **Enhanced discretion of LG:** Article 239AA mandates LG to act on CoM's advice, but GNCTD Act increases LG's discretionary powers.
- **Non-clarity on controversial matters:** Act provides for bringing matters that may bring GNCTD in controversy with central government to the notice of LG but does not define these controversial matters.



Challenges in Governance of Delhi

- **Unclear status: Article 1, read with Article 239**, provides that UTs are to be governed solely by President. However, Delhi’s special status creates ambiguity in administrative process.
- **Presence of national and international institutions in Delhi:** Requires highest national standards in governance.
- **National Prestige:** Any decision taken in respect of Delhi affects the entire country, having the potential of **putting the national reputation, image, credibility, and prestige at stake.**
- **Delays in decision-making:** Due to disagreements between LG and elected government, creating **inefficiencies and uncertainty in governance.**

Way Forward

- **Adopting Different models for governance of capital cities:** These include:
 - **Capital as a federal district** – Abuja, Brasilia, Canberra, Washington DC. There are varying degrees of federal control over these cities.
 - **Capital as city-states** – Berlin, Brussels, Buenos Aires. Here, city government carries out state functions.
- **Decentralisation of decision-making:** In Australia, Sydney is divided into 31 local governments, coordinated by the state government.
- **Domain demarcation:** Places with Central government offices under central administration; rest of NCT under Delhi state.
- **Enforcement powers:** Municipalities can be provided with community police for civil compliance, while Delhi police handle criminal issues

2.6. ONE NATION ONE LANGUAGE

Why in the news?

Recently, Union Home Minister urged the **use of Hindi as the lingua franca**, rather than English, in inter-State communication.

About Hindi Language

- Hindi belongs to **Indo-Aryan branch of Indo-European family of languages**. It is a **descendant of Sanskrit**, which is an ancient Indian language.
- In 1949, **Constituent Assembly adopted Hindi**, along with English, as **Official Language of Union of India**.
- In 1950, Constitution of India **declared Hindi in Devanagari script** as Official language of India **under Article 343**.
- **Official Languages Act, 1963** provided that English ‘may’ still be used along with Hindi for official communication.
- As per **2011 linguistic census**, Hindi is most widely spoken by **52.8 crore individuals, or 43.6% of population**, followed by Bengali and Marathi.

Need of one nation and one language	Issues with one nation and one language
<ul style="list-style-type: none"> • Brotherhood spirit: Bring together Indian Diaspora and reduced the gap between North and South India. • Administrative efficiency: One language can address the issue of language becoming a barrier to understand people’s aspirations and needs. 	<ul style="list-style-type: none"> • Against diversity: With 19,569 mother tongues (Census 2011), imposing one language undermines diversity. • Federal issue: Only 12 out of 36 states and UTs chose Hindi as their first language (Census 2011). • Pluralistic Society: The idea of one national language is rooted in colonialism and contradicts India's multilingual history and culture.

- | | |
|---|---|
| <ul style="list-style-type: none">• Enhance Service delivery: For example, in healthcare, language barrier can lead to misdiagnosis; one language can overcome such issue and ensure quality care and patient safety.• Saves government money and time that would have been spent translating various public documents.• Promotes understanding and economic cooperation and facilitates communication of ideas, values and beliefs. | <ul style="list-style-type: none">• Secessionist tendency: For instance, Imposing Urdu on East Pakistan contributed to the creation of Bangladesh.• Economic Impact: Slow down migration, reduce capital flow and increase regional imbalances.• Threat to minority language: The extinction of the Bo language in the Andaman and Nicobar Islands exemplifies the threat to minority languages. |
|---|---|

Conclusion

Having a single language throughout India by consensus will strengthen the brotherhood spirit, enhance administrative efficiency etc. However, Article 29 states that citizens have the right to protect their specific language, script, and culture. Therefore, while implementing one nation one language, steps should also be taken by State governments to strengthen local languages, preserve ancient philosophy and respect linguistic diversity.

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3. PARLIAMENT AND STATE LEGISLATURES: STRUCTURE AND FUNCTIONING

3.1. PARLIAMENTARY PRIVILEGES OF LAWMAKERS

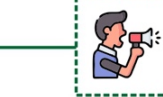
Why in the news?

Recently, Supreme Court **set up a seven-judge bench** headed by Chief Justice of India for **reconsideration of its 1998 five-judge Constitution bench judgement in P V Narasimha Rao case.**

About Parliamentary Privileges

- Parliamentary privileges are a **legal immunity enjoyed by members of legislatures**, in which **legislators are granted protection against civil/ criminal liability** for certain actions done or statements made in course of their legislative duties.
- So far, **neither Parliament nor any State legislature has enacted any legislation** that defines the powers, privileges and immunities of the Houses, or that of its members and committees.

Rationale behind Parliamentary Privileges



Ensure freedom of expression of legislators without fear of legal consequences



Carry out functions independently and effectively of both houses without any interference



Maintain authority, dignity of legislature



Ensure attendance of parliamentary sessions

What are the provisions that grant legislators immunity from prosecution?

- Powers and privileges of **both Houses of Parliament and its members** and committees (**Article 105**, Article 194).
- Right to Prohibit Publication of Proceedings (Article 105(2), Article (194(2)).**
- No member is liable to any proceedings in any court** for anything said or any vote given by him in Parliament or its committees (**Article 105(2)**).
 - This freedom is **subject to provisions under Article 118** (rules and procedures of parliament).
 - However, Article 121 restricts members from discussing the conduct of judges of SC and HC.
- Freedom from arrest of members** in civil cases during a session and **40 days** before it's commencement and **40 days** after conclusion.
 - An MP **doesn't enjoy any immunity against action in a criminal case**, during the session or otherwise.
 - Parliament reserves the right to receive immediate information of arrest, detention, conviction, imprisonment, and release of a member on a criminal charge.
- Right to Exclude Strangers** by Members of house from proceedings for securing free and fair discussion in house.

- Also, as per **Article 122**, validity of any proceeding of Parliament can't be inquired into by a court on grounds of alleged irregularity of procedure.



Important Judicial Pronouncements in context of Privileges

- **PV Narasimha Rao vs. State:** SC stated that members need wider protection of immunity against all **civil and criminal proceedings** that bear a nexus to their speech or vote.
- **M.S.M. Sharma case:** SC stated whenever there is a condition of imbalance between provision of **part V, Article 194(3) (privileges)** and fundamental rights conferred by part III, fundamental right will remain supreme over the others.

Need for reform in Parliamentary Privileges

- **Lack of oversight:** To prevent members of house from using privileges for personal or official gains/interest.
- **Against Natural justice:** As breach of privilege laws **allows politicians to judge their own cases**.
- **Absence of codified privileges:** It gives unlimited power to house to decide when and how a breach of privilege occurs.
- **Privileges shield lawmakers:** From prosecution as, civil cases cannot be initiated when the House is in session.
- **Misuse of powers and rights by MPs and MLAs:** It may result in violation of fundamental rights of citizens.

Way Forward

Providing immunity to parliamentarians is essential. However, urgent steps are required to ensure constitutionalism such as **codifying privileges, establishing standard operating procedures in case of breach of privilege** etc. Also, **Parliament can establish clear boundaries by enacting specific legislation** to monitor the misuse of parliamentary privileges by its members.

3.1.1 EXPULSION OF LAWMAKERS

Why in the news?

Recently, **Lok Sabha has expelled** one of its **members accused of accepting gifts and illegal gratification**.

Expulsion of Lawmakers in India

Expulsion of an MP in India can be on a constitutional as well as legal (Rules of the house) basis. While the **rules of the house** provide for the **suspension of MPs**, members **can also be expelled through these rules**.

- **Constitutional basis of expulsion:** An MP found guilty of **breach of privileges** or **contempt of house** can be suspended from house or face expulsion.
 - **Article 122** says parliamentary proceedings can't be questioned by judiciary, although courts have intervened in some cases.
 - ✓ In **Raja Rampal case (2007)**, Court upheld the expulsion of Raja Ram Pal but noted that proceedings tainted by substantial illegality are open to judicial scrutiny.
- **Legal basis of suspension and expulsions of MPs:**
 - **Presiding Officer of House** has **power to force a Member to withdraw** from House.
 - In cases of extreme misconduct, House may expel a member "to rid the House of persons who are unfit for membership."

Disqualification of Members of Either House of Parliament

- **Constitutional Provisions: Article 102** provides for disqualification of members under certain conditions like if he holds **any office of profit** under Union or state government; **disqualified under any law made by Parliament** etc.
- **Criteria for disqualification under RPA, 1951:** If convicted and sentenced to imprisonment for **two years** or more.
 - If an MP is found guilty of **certain election offences or corrupt practices** in the elections.
- **Tenth Schedule (Introduced in Constitution by 52nd Amendment Act 1985):** Person shall be disqualified from being a MP if he is so **disqualified on ground of defection** under **Tenth Schedule**.

Please note that expulsion and disqualification are not the same. Under disqualification, MP cannot contest the elections further while under expulsion he/she can.

Comparison of Indian and US forms of expulsion		
Basis	Indian process of expulsion	US process of expulsion
Conduct that warrants expulsion	Breach of Privileges and contempt of House/Disregarding Rules of Procedure and Conduct of Business	No limitation on Congressional power to determine what conduct warrants expulsion.
Majority required	Simple majority is needed for passing a motion in each house.	A two-thirds majority of the House is required.
Ethics Committee	Involvement of ethics committee is not always necessary for expulsion.	Recommendation from ethics committee is required.
Disqualifications	A total of 17 MPs have been expelled (indicating relatively simple procedure).	Only 6 House of Representatives have been expelled (indicating relatively complex process).

3.1.2. IMPEACHMENT IN US AND INDIA

Why in news?

US House of Representatives voted to formally open an impeachment inquiry into the President.

Impeachment in US and India

Specification	USA	India
Applicability	President, Vice President, and all civil officers of Federal Government.	Only President (under Article 61).
Grounds of Impeachment	Treason, Bribery, or other high crimes and misdemeanors.	Violation of Constitution
Process	<ul style="list-style-type: none"> • Charges: Any member of House of Representatives. • Voting: Simple majority of House of Representatives. • Presiding Officer for trials: Chief Justice of US. 	<ul style="list-style-type: none"> • Charges preferred by: Either House of Parliament provided such charges are signed by at least 1/4th of members of House. • Voting: Resolution needs to be passed by not less than 2/3rd of total membership of each House. <ul style="list-style-type: none"> ○ Once passed in one House, it is sent to other House, where an investigation into charges precedes vote on resolution. • Presiding Officer: Presiding Officer of respective Houses.
Consequence	<ul style="list-style-type: none"> • Impeachment serves as an indictment, not removal. 	<ul style="list-style-type: none"> • Impeachment results in removal of President from office.

	<ul style="list-style-type: none"> • After impeachment, Senate (upper house) is convened like a court. President can only be removed if at least 2/3rd of Senate votes for it after hearings. • Andrew Johnson, Bill Clinton, and Donald Trump were impeached but none were removed. 	<ul style="list-style-type: none"> • No President has been impeached so far.
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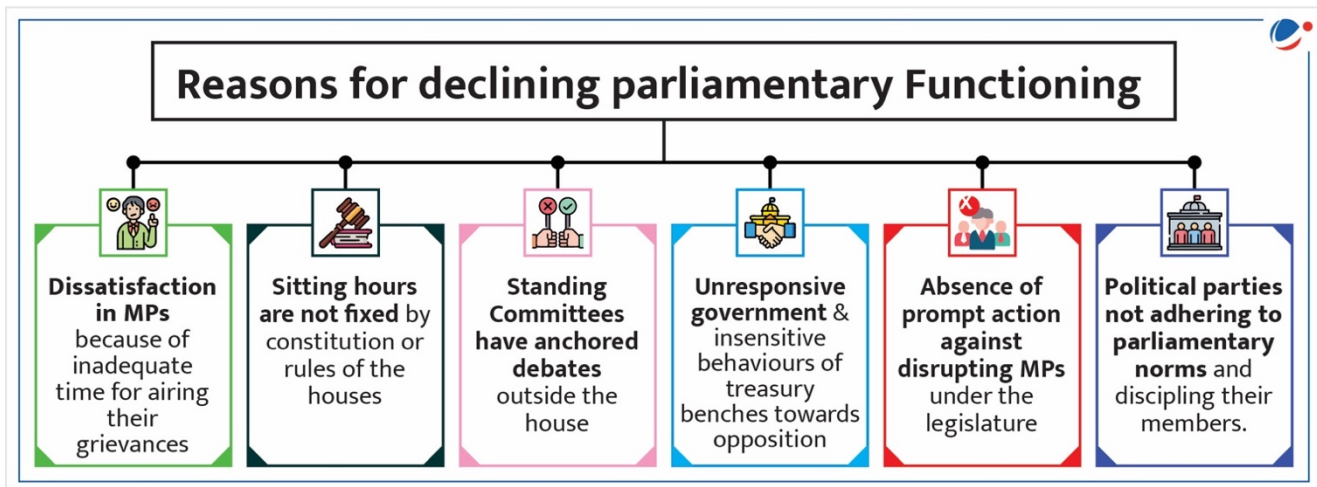
3.2. PARLIAMENTARY FUNCTIONING

Why in news?

17th Lok Sabha (LS) held 274 sittings as compared to 331 sittings in 16th Lok Sabha.

Recent instances of reduced Parliament Functioning

- **Absence of Bill scrutiny:** In 17th LS, 45 of 222 bills were passed through Parliament same day of introduction (ADR report). E.g. Government of Union Territories (Amendment) Bill, 2023.
- **Referral of bills to parliamentary committees:** Declining trend, with only 28% in 16th LS and 16% in 17th LS.
- **Reducing attendances:** On average, MPs had 79% attendance during 17th LS compared to 81% (16th LS).



Why it is important to ensure functioning of Parliament?

- **Central role in democracy:** Parliament has central role in democracy as representative body that checks and balances the work of government.
- **Examining Legislation:** It scrutinizes legislative proposals, understanding their nuances and implications.
- **Constitutional Mandate:** Parliament fulfill its constitutional mandate i.e. **3Ds (Debate, Discussion and Deliberation)**.
- **Ensuring Accountability:** Under Article 75, it ensures collective responsibility of the Council of Ministers to the Lok Sabha.

How Parliamentary functioning can be improved?

- **Increase sittings:** National Commission to Review the Working of Constitution has recommended **minimum** number of sittings for Lok Sabha and Rajya Sabha should be fixed at 120 and 100 respectively.
- **Institutional research support for MPs:** To **examine issues that are technical in nature and serve as expert bodies** to examine complex policy issues.
- **Committee referrals:** Referring bills to committees and extend their tenure to fully utilise their technical expertise on a particular subject in legislative work.

- **Responsible Opposition:** Members must question, object and suggest alternative courses of action through reasoned and persuasive argument.

3.3. OFFICE OF SPEAKER

Why in news?

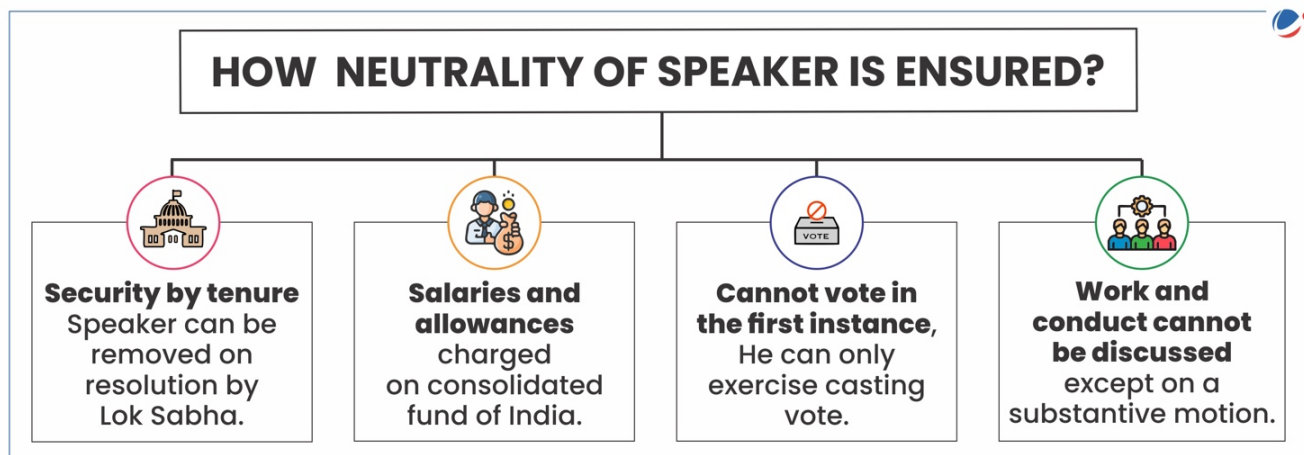
Recently, Shri Om Birla has been re-elected as the Speaker of the 18th Lok Sabha.

About office of Speaker

- **Head of Lok Sabha**, and its representative. It is constitutional office under **Article 93**.
- **Guardian of rights and privileges of the members.**
 - Speaker maintains order and decorum in House for conducting its business and regulating its proceedings.
- **Ultimate interpreter and arbiter** of provisions which relate to functioning of House.

Issues in functioning of office of speaker

- **Role under anti-defection law:** For instance, a **disqualification petition was pending for almost three years** before Manipur Speaker in 2020.
 - **In Nabam Rebia case (2016)**, SC held that a speaker or Deputy Speaker facing notice of removal cannot decide disqualification proceedings against legislators.
- **On declaring money bill:** For e.g., Speaker's decision to certify Aadhaar bill as money bill.
- **Allegations of bias and favouritism:** For instance, suspension of opposition MLAs of Tamil Nadu Assembly in 2016, where members of a party were evicted en masse from House while protesting.
- **Allegations of partisanship:** In Britain, Speaker relinquishes party membership for impartiality. In India, this convention is not observed, affecting Speaker's impartiality.



Suggestions to reform office of speaker

- **Reduce role of speaker in Anti-defection law:** In **Keisham Meghachandra Singh** case, SC said that current mechanism where disqualification petitions are entrusted to a Speaker, can be replaced by a permanent Tribunal.
- **Follow Britain's model:** As per British convention, parties refrain from opposing the Speaker during elections to uphold impartiality.
- **Continuation based on performance:** Page Committee recommended allowing the Speaker to continue in next Parliament if they exhibited impartiality and efficiency during their tenure.
- **Restrictions on political office:** Speaker should be ineligible for future political positions, with certain exceptions, while being granted a lifelong pension.

Conclusion

A watchful Parliament forms the foundation of a well-functioning democracy. The presiding officers of Parliament are the key to securing the effectiveness of this institution. Thus, it is important to ensure **impartiality, fairness and autonomy** in decision-making in the office of Speaker.

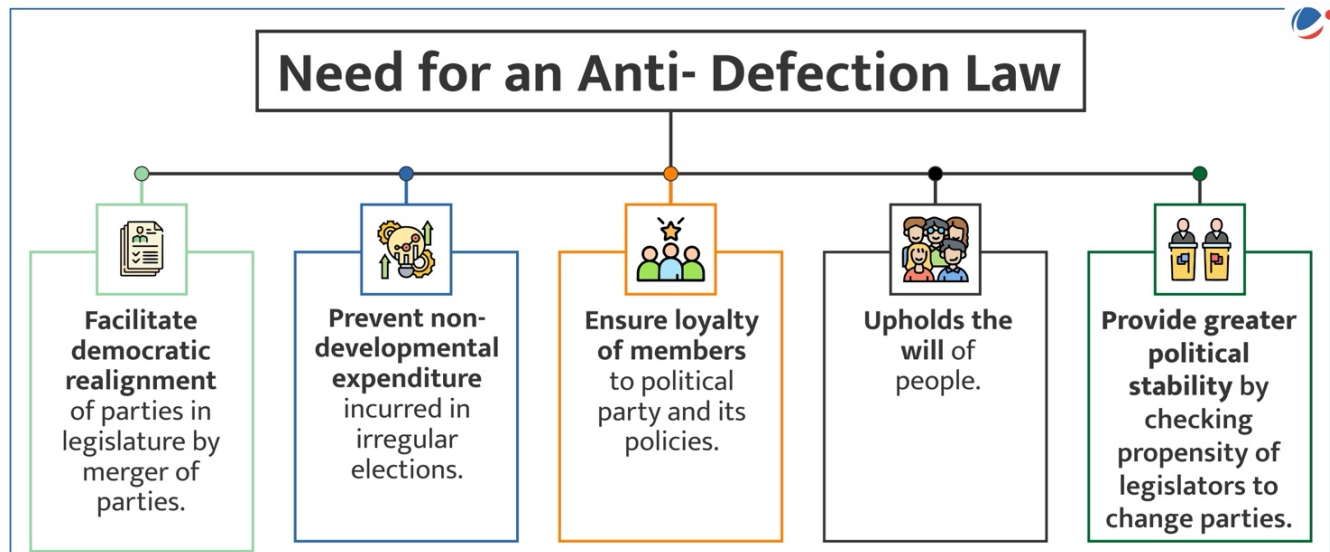
3.4. ANTI-DEFECTION LAW

Why in news?

Recently, Maharashtra Assembly Speaker dismissed all petitions seeking disqualification of MLAs under anti-defection law.

What is Anti-Defection Law (ADL)?

- **ADL** is a legislative framework to **prevent elected MPs and state legislatures from switching political parties** or voting against the party's directives after their election.
 - It was enacted in **1985** as **10th Schedule**.
- **International scenario on ADL**
 - Among Commonwealth countries, ADL is **prevalent in 23 nations**.
 - In **UK Parliament**, a member is **free to cross over** to other side, without being daunted by any disqualification law.
 - In **US, Canada, and Australia**, there is no restraint on legislators switching sides.



Why anti-defection law needs an overhaul?

- **Absolute Power to presiding officer:** To decide case related to disqualification of members on grounds of defection.
- **Unable to curb instability:** Limited space for dissent among elected representatives has led to **mass defections and government instability**.
- **Expulsion does not attract disqualification:** ADL addresses voluntary defection but not expulsion of a member, creating a potential loophole for exploiting and joining another party.
- **No liability for political parties:** It only punishes legislators for switching parties.
- **Problem with merger provision:** It is based on number of members rather than **reason behind defection**.
- **To upheld representative government:** Anti-Defection law restricts freedom of speech and legislation and reduce accountability of elected representatives.



Important Judicial Pronouncements in context of Anti-Defection Law

- **Kihoto Hollohan vs Zachillhuase (1992):** A Constitution Bench, while upholding Validity of anti-defection law, held that **Speaker's decision was subject to judicial review.**
- **Keisham Meghachandra Singh v The Hon'ble Speaker Manipur (2020):** SC held that decision under anti-defection law should be made within a **reasonable time period.**

What can be done to overcome these issues?

- **Defining defection:** Defining actions or conduct which constitutes defection that **does not inhibit independent thinking and expression** by legislators.
- **2nd ARC recommendation:** Issue of disqualification of members on grounds of defection should be **decided by President/Governor on advice of EC.**
- **Intra party democracy:** It will indirectly create more acceptance for divergence of opinion and stance within party.
- **Active involvement of ethics committee:** As done in Cash for Query scam, can help in curbing horse trading of legislators.
- **Bring more clarity:** Law must **explicitly set out what it means by words 'voluntarily giving up Membership'** to avoid any confusion.

3.5. DELEGATED LEGISLATION

Why in the news?

Recently, SC observed that a delegated legislation which is ultra vires the parent Act cannot be given any effect.

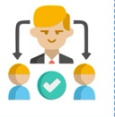
About Delegated Legislation

- It is a process by **which executive authority is given powers by primary legislation** to make laws to implement and administer requirements of that primary legislation.
- **Purpose of Delegated Legislation**
 - Enables government to make a law without having to wait for a new act of Parliament to be passed.
 - Reduces pressure on Parliament.
 - Modern Administration getting more complex, so there is need to provide more powers to different authorities on specific occasions.
- **Circumstances where Delegated Legislation would be invalid**
 - **Fundamental Rights** or any Constitutional provisions **violated.**
 - **Rules/Regulations are ultra vires** the provisions of parent Act and fail to conform to the substantive provisions of the statute.
 - **Executive did not have the legislative competence** to frame the said rule or regulation.
 - SC has held that **Legislature cannot delegate its 'essential legislative functions'** to executive branch.

Issues in Delegated Legislation

- **Low Scrutiny of Delegated Legislation**
- **High frequency to notify rules and regulations:** For Example, since enforcement of Companies Act 2013, MCA has notified 56 Rules under Act, and issued 181 Circulars.
- **Against the spirit of Democracy:** As unelected person is involved in rules framing and **Political motive** can also come in delegated legislation.
- **Abuse of ruling making powers by executive:** Bad rules will inevitably lead to litigation and increase the existing backlog of cases.

- **Overlapping of the Function:** As the delegated authorities get work to amend the legislation that is the function of legislators.



Important Judicial Pronouncements in context of Delegated Legislation

- **Kerala State Electricity Board:** SC held that Delegated legislation, including rules and regulations formed by State and Central authorities should **not replace** but supplement the parliamentary statute from which it draws power from.
- **Petition Vivek Narayan Sharma vs Union of India (Demonetisation case), 2016:** SC upheld the validity of delegated legislation by upholding the **Centre's 2016 decision on demonetisation**.
- **D. S. Garwal vs State of Punjab and Another, 1959:** **Article 312** of Constitution deals with the powers of delegated legislation.

Way forward

- **Coordination between MPs and Committees:** When an MP refers subordinate legislation to a committee for analysis, the committee must undertake the review and report to the house within a specified timeframe.
- **Parliament Procedures:** Amendments should require a vote to affirm each rule presented before Parliament.
- **Additional Working Committees:** Create additional working committees within the Standing Committee on Subordinate Legislation to conduct thorough rule analysis.
- **Delays in Drafting Rules:** Any delay in drafting rules within six months of an Act's commencement must be reported to the committee with reasons.



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4. STRUCTURE AND FUNCTIONING OF JUDICIARY AND OTHER QUASI-JUDICIAL BODIES

4.1. 75 YEARS OF THE SUPREME COURT OF INDIA AT A GLANCE

Supreme court of India

- Supreme Court is the **apex judicial body** under the Constitution of India came into existence on **26 January 1950**.
- Article 124(i)**: SC of India must have a **CJI** and a maximum of 7 additional justices unless Parliament specifies a higher number through a statute.
 - Currently, SC comprises the **Chief Justice and 33 other Judges**.
- SC's powers and jurisdiction are outlined in **Articles 124 to 147** of Constitution.

Key Features of Supreme Court of India

 Highest Court of Appeal	 Advisory Jurisdiction (Article 143)	 Adjudicate Federal Disputes between Union and states and between different states (Article 131).	 Public Interest Litigation (PIL)	 Protection of Fundamental Rights of citizens by issuing writs and orders (Article 32)	 Judicial Review
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Challenges Faced by Supreme Court

- Massive Case Backlog**: According to National Judicial Data Grid, there are over 85,000 cases pending in the Supreme Court alone.
- Judicial Activism vs. Judicial Restraint**: This debate revolves around the appropriate role of judiciary in policymaking and governance.
- Uncle Judge Syndrome**: **Law Commission of India's 230th Report** highlighted a concern about potential favouritism in appointment of judges to HC and SC.
- Judicial-Executive Conflict**: Marked by delays in judicial appointments, Tribunalisation of justice, and public criticism of the executive during COVID-19.
- Public Perception and Trust**: Issues related to transparency, accountability, and judicial independence.

Recent technological Initiatives of the SC

- eCourts Mission Mode Project**: Created 7 platforms for real-time case status, cause lists, judgments, etc.
- Virtual Courts**: Enable case adjudication on virtual platforms without physical presence.
- National Judicial Data Grid (NJDG)**: Monitors and reduces case pendency.
- National Service and Tracking of Electronic Processes (NSTEP)**: Facilitates serving and issuing summons electronically.

Way forward

- Judicial reforms**: Increasing the number of judges, improving infrastructure, and promptly filling vacancies can address backlog issues and ensure timely justice.
- Enhancing transparency and accountability**: Making the appointment of judges transparent and judgments more accessible boosts public trust in the judiciary.
- Strengthening judicial independence**: Protecting the judiciary from undue influence ensures the integrity of the judicial system
- Implementing technology**: Utilizing e-filing, video conferencing, and virtual hearings can reduce case backlogs and enhance efficiency.

4.2. CRIMINAL JUSTICE SYSTEM AT A GLANCE

Criminal Justice System

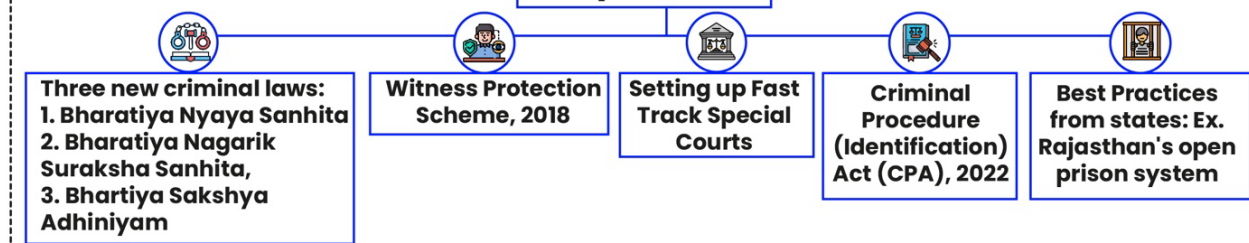
It refers to the structure, functions, and decisions or processes of formal agencies that deal with crime prevention, investigation, prosecution, punishment and correction, protects vulnerable sections. It can be approach in ways like Deterrence, Retribution, Incapacitation, Rehabilitation, and Reparation.



Need to reform India's Criminal Justice system

- **Erasing colonial legacy:** Update laws to fit modern socio-economic and cultural contexts.
- **Low conviction rates:** Murder (43.8%), Rape (27.4%) - NCRB 2022.
- **Addressing court pendency:** 4.7 crore cases pending in SC, HC, and subordinate courts.
- **Low judge to population ratio:** 21 judges/million.
- **Modern technology:** Integrate in evidence handling, storage etc.
- **Low extradition success.**
- **Human resource shortage:** 192 police/lakh (UN recommends 222).

Steps taken



Way ahead

- Supreme Court Police Reforms (**Prakash Singh vs. UoI, 2006**):
 - **Establish State Security Commission** to eliminate political interference.
 - **Merit-based DGP appointments** with a minimum two-year tenure.
 - **Form Police Establishment Board** for managing transfers, postings, promotions, and salaries.
 - **Set up National Security Commission** for selecting Chiefs of Central Police Organisations.
- **Increasing independence of prosecutors:** Establish a strong, operationally and financially independent Department of Prosecution in every state.
- **Recommendations of Malimath Committee**
 - **Right to Silence:** Modify **Article 20(3)** to address self-incrimination.
 - **Rights of accused:** Publish Code schedule in regional languages for awareness.
 - **Authorize dying declarations,** confessions, and audio/video recorded witness statements.
 - **Public prosecution:** Appoint Assistant Public Prosecutors and Prosecutors via competitive examination.



4.2.1. CRIMINAL LAW REFORM ACTS

Why in the news?

Three new criminal laws—Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhiniyam—came into effect across the country on, July 1

4.2.1.1. BHARATIYA NYAYA SANHITA 2023

Objective

It replaces Indian Penal Code (IPC), 1860 which continued outdated provisions that did not align with the evolving modern rights.

Background

- **Prior to IPC 1860:** Indian criminal law consisted of a complex array of Parliamentary Charters and Acts, East India Company Regulations, Hindu law, Muslim law, customary law etc.
- **Post enactment of IPC 1860:** Several Law Commission reports have **recommended amendments to IPC** on subjects including **offences against women, food adulteration, death penalty** etc.

Key provisions of Bharatiya Nyaya Sanhita 2023

- **Provide Community service** (for the first time) as one of the punishments for petty offences.
- **Sexual offences against women:** Increases **threshold for gangrape victim to be classified as a major**, from 16 to 18 years of age.
 - **Criminalizes sexual intercourse with a woman by deceitful means** or making false promises.
- **Removes offence of sedition:** It instead penalizes the following:
 - Exciting or attempting to **excite secession, armed rebellion, or subversive activities**
 - Encouraging feelings of **separatist activities**, or
 - Endangering **sovereignty or unity and integrity of India**.
- **Defines terrorism** as an act that intends to **threaten the unity, integrity, security or economic security** of country, or **strike terror in the people** or any section of **people in India or in any foreign country**.
- **Defines organised crime** as **any continuing unlawful activity** including kidnapping, extortion, cybercrime etc. **carried by an individual or a group**, either as **a member or on behalf of an organised crime syndicate**.

Potential Impact

- **Subjective interpretation:** Unclear definitions of “criminal activity” may lead to their **improper application** and **affect Freedom of Speech and Expression**. For example-
 - “Subversive activities” might include any form of critique, or ‘Terrorist acts’, which now include damage to property and provocation or intimidation.
- **Discretionary police powers:** Police have enhanced discretionary powers to choose between prosecuting under new laws or existing statutes like UAPA without clear guidelines, leading to inconsistent application and concerns about fairness and accountability.
- **Delays in existing trials:** Though new bills exclude their application to pending proceedings and trials, courts are **likely to be bombarded with interpretation**, resulting in delays in the actual trial of the offences.

Conclusion

The new law has been drafted by a democratically elected Government, 160 years after IPC 1860, purportedly with a focus on delivering Nyaya (Justice) as opposed to the earlier Penal code that focused on punishments.

4.2.1.2. BHARATIYA NAGARIK SURAKSHA SANHITA 2023

Objective

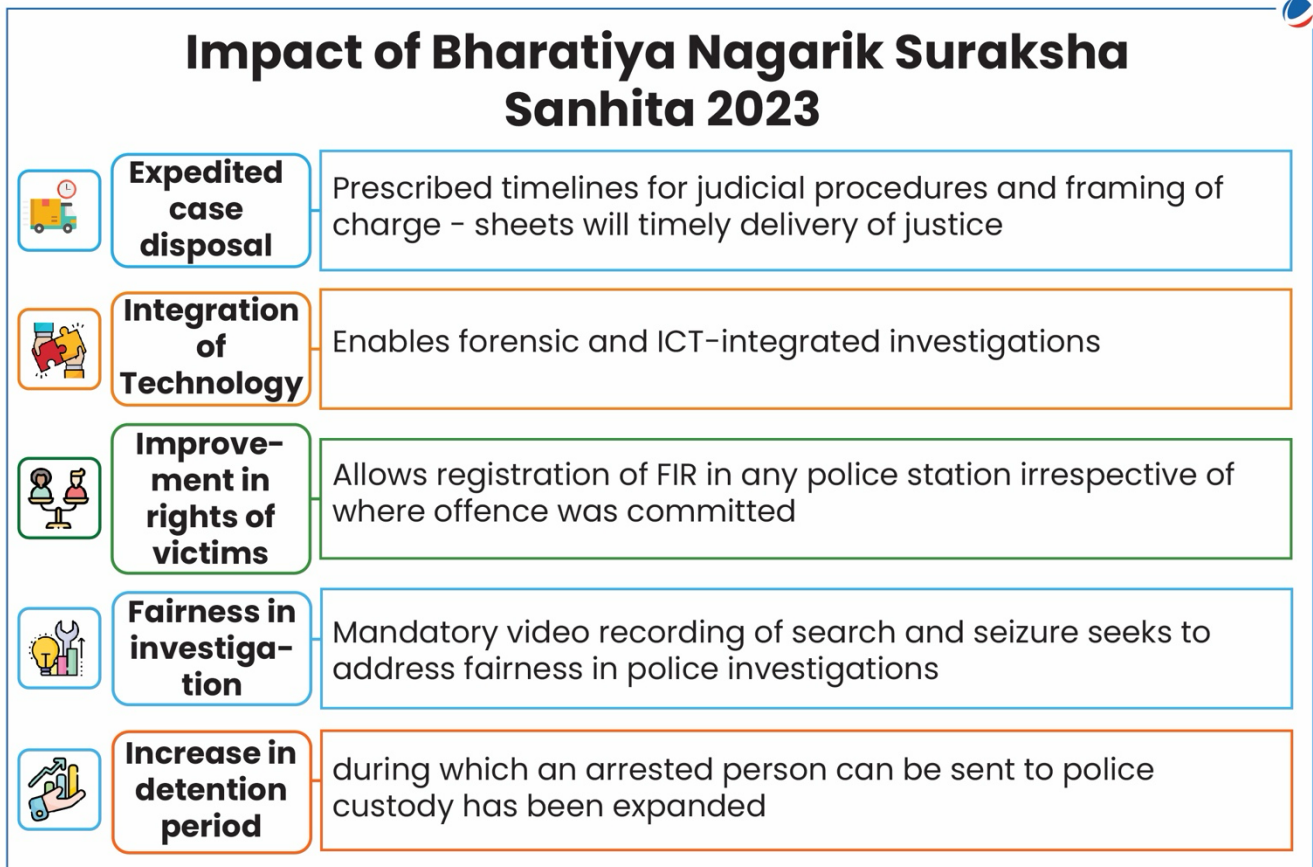
It replaces CrPC, 1973 which provided for procedure for arrest, prosecution, and bail under various Acts, including IPC 1860.

Background

- **Genesis:** CrPC was first enacted in 1861 under British rule and later substituted by fresh Codes successively enacted in 1872 and 1882.
 - It had **undergone several amendments**, most importantly in 1898, 1923 and 1955.
- **CrPC 1973: Law Commission of India**, in its 41st report, **recommended a significant revision of code**, which led to the **creation of CrPC 1973**.

Key provisions of Bharatiya Nagarik Suraksha Sanhita 2023

- **Detention of undertrials: First-time offender completed one-third** of maximum period of imprisonment specified for such offence shall be **released on bond**.
 - If an **accused has spent half of maximum period** of imprisonment specified for an offence, he shall be released by Court **on bail**.
 - ✓ **This does not apply to offences** punishable by **death, life imprisonment**, and persons against whom proceedings are pending in **more than one offence**.
- **Medical examination** of accused in certain cases, including rape cases can be requested by any police officer.
- **Mandates Forensic investigation** for offences punishable with at least seven years of imprisonment. If a state does not have forensics facility, it shall utilise such facility in another state.
- **Empowers Magistrate** to order any person, whether arrested or not, to **provide specimen signatures, handwriting, finger impressions** and voice samples.
- **Timelines for procedures.** For instance, submission of medical reports to investigating officer, giving judgment, informing victim of progress of investigation and framing of charges.



Conclusion

Incorporation of forensic science, prescribed time limits for the police, lawyers and judges is expected to expedite justice delivery.

4.2.1.3. BHARATIYA SAKSHYA ADHINIYAM 2023

Objective

It replaces Indian Evidence Act (IEA), 1872 which governed the admissibility of evidence in Indian Courts in all civil and criminal proceedings.

Background

- **Genesis:** IEA 1872 was enacted to **consolidate laws relating to evidence** on which the court could come to a conclusion and pronounce the judgment.
 - IEA has been amended several times, most recently in 2000 to provide for admissibility of electronic records as secondary evidence and in 2013, to add provisions related to consent in cases of rape.
- **Primary issue:** IEA **did not address technological advancement** undergone in country during the last few decades.

Key Provisions of Bharatiya Sakshya Adhinyam 2023

- **Admissibility of electronic or digital records as evidence.** It expands electronic records to include information stored in semiconductor memory or any communication devices (smartphones, laptops), emails, server logs etc.
- **Electronic records will be considered as documents** apart from writings, maps, and caricatures.
- **Allows oral evidence to be given electronically,** which includes statements made before Courts by witnesses in relation to a fact under inquiry.
- **Joint trials:** Act adds that a trial of multiple persons, where an accused has absconded or has not responded to an arrest warrant, will be treated as a joint trial (trial of more than one person for same offence).

Potential Impact

- **Expansion in use of electronic evidence:** This can lead to a reduction in wrongful convictions and provide help in investigating cases faster.
- **Issues of privacy:** It emerges from seizure of electronic devices and access to sensitive information that may be stored within them.

Conclusion

The three laws present an opportunity to truly decolonise the criminal justice system and uphold constitutional values in criminal processes. A framework for regular monitoring and periodic review of new criminal laws will also go a long way in modernising the criminal justice system.

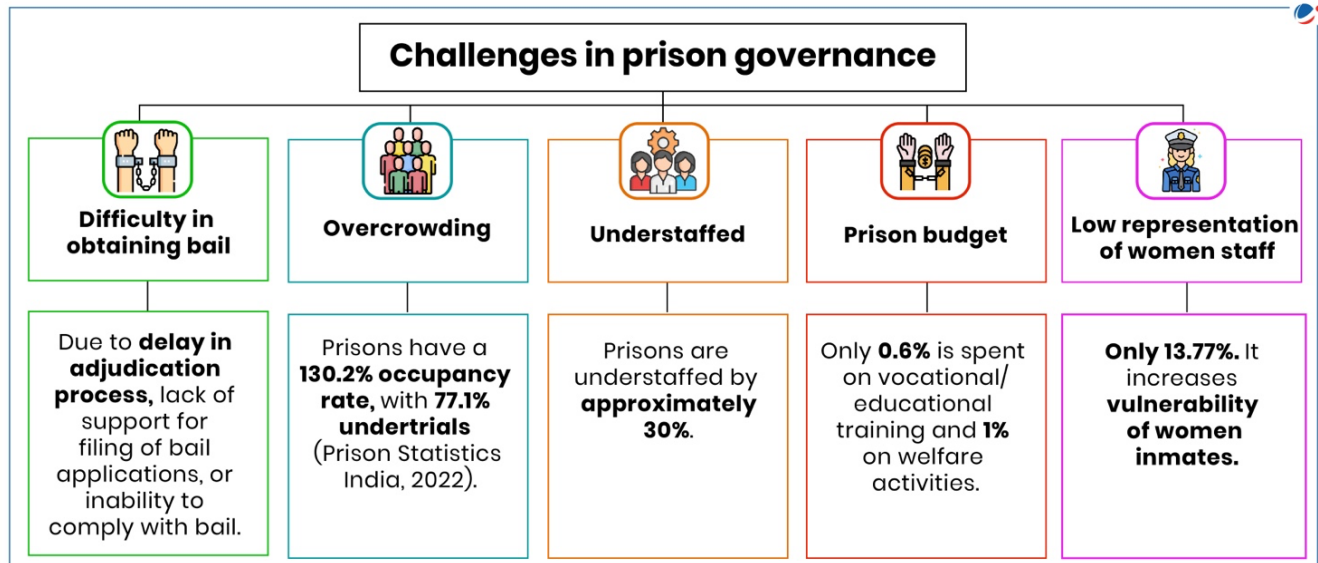
4.2.2. PRISON REFORM

Why in the news?

Parliamentary Committee on Home Affairs submitted report on '**Prison conditions, Infrastructure and Reforms**'.

Governance of Prisons in India

- **Prisons/ Persons detained therein** is a 'State' subject.
- However, given the **significance of prisons in Criminal Justice System**, Ministry of Home Affairs has been providing regular guidance and support to States and UTs on matter.



Steps taken by the Centre for Prison Reforms

- **Model Prison Manual 2016** aims to standardize prison administration and prisoner management nationwide.
- **Model Prisons and Correctional Services Act, 2023** replaces **Prisons Act (1894)** and assimilates relevant provisions of **Prisoners Act (1900)** and **Transfer of Prisoners Act (1950)**.
- **E-Prison Project** introduced efficiency in prison management.
- **Modernization of Prison Scheme** for enhancing infrastructure and other logistical facilities in jails.

Way ahead

- **Recommendations of Parliamentary Committee on Home Affairs**
 - Implement “**Support to Poor Prisoners programme**” announced in the Union Budget 2023.
 - **Utilise** technology like **trackable bracelets** to keep **track of prisoners on bail**.
 - **Renovate colonial-era prisons** to preserve their heritage and earn revenue by **encouraging tourism**.
 - **State Governments may create a Prison Development Fund** for the welfare activities of the prisoners.
- **Recommendations of Mulla Committee, 1980 on Jail Reforms**
 - Setting up an **All India Service** called **Indian Prisons & Correctional Service**.
 - **After-care, rehabilitation and probation** to be an integral part of prison service.
 - **Press and public to be allowed** inside prisons and allied correctional institutions periodically.
 - **Undertrials in jails to be reduced to bare minimum** and they be kept away from convicts.

4.3. TRIBUNAL SYSTEM IN INDIA

Why in the News?

Recently, the Supreme Court (SC) ruled that **tribunals cannot direct the government** to frame policy and making policy is not in the domain of the Judiciary.

About Tribunals System

- **Nature:** Quasi-judicial bodies.
- **Objective:** Reduce the caseload of the judiciary or to **bring in subject expertise for technical matters**.
- **Composition of Tribunals:** Presence of **expert members (technical members) along with judicial members** is a key feature of tribunals which distinguishes them from traditional courts.
- **Jurisdiction:** Each tribunal is given **specific jurisdiction** to hear and decide cases within its designated area of expertise. Some tribunals have **appellate jurisdiction**.

- **Appeals:** Appeals from tribunals usually lie with the concerned **High Court**. However, some laws specify that appeals will be heard by **Supreme Court**.
 - In **Chandra Kumar Case (1997)**, appeals against decisions of tribunals were allowed in **division bench of High Courts**.
- Currently, tribunals have been **created both as substitutes to High Courts and as subordinate to High Courts**.
- In 1976, Articles 323A and 323B were inserted in Constitution through **42nd Amendment**.



Constitutional provisions related to Tribunal in India

- **Article 323A:** Empowered **Parliament to constitute administrative Tribunals** (both at central and state level) for adjudication of matters related to recruitment and conditions of service of public servants.
- **Article 323B:** Specified certain subjects (**taxation and land reforms**) for which **Parliament or state legislatures** may constitute tribunals by enacting a law.
 - In **2010, SC clarified** that subject matters under **Article 323B** are not exclusive, and **legislatures are empowered** to create tribunals on any subject matter under their purview as specified in **7th Schedule**.

Significance of Tribunals

- **Specialization:** It ensures that cases are adjudicated by individuals with a deep understanding of relevant legal and technical issues.
- **Speedy Resolution:** Timely decisions in crucial areas such as service matters, tax disputes, and environmental issues.
- **Geographically dispersed:** Benches located nationwide ensure accessibility.
- **Efficiency in Service Matters:** Administrative Tribunals, like **Central Administrative Tribunal (CAT)**, expedite the resolution of service-related matters for government employees.

Concerns with Tribunals

- **Lack of Independence:** In 2019, SC reiterated that lack of judicial dominance in selection committees of tribunals violates the doctrine of separation of powers.
- **Pendency of cases:** For example, **over 7,500 pending cases** at Motor Accident Claims Tribunal
- **Term of office:** In 2019, SC stated that a **short tenure of members** along with provisions of **re-appointment** increases the influence and control of the Executive over the judiciary.
- **Overlapping Jurisdictions** between tribunals and regular courts, leading to confusion and potential conflicts.
- **Concerns Regarding Technical Members:** In certain tribunals, technical members may lack legal qualifications.

Way Ahead

- **Administration of Tribunals:** The 2015 Standing Committee on Personnel, Public Grievances, Law and Justice recommended creating the National Tribunals Commission (NTC) for tribunal administration.
 - In 2020, the SC also emphasized establishing the NTC for supervising appointments and administration.
- **Timely Appointments:** Expedite tribunal member appointments to prevent delays and reduce case backlogs.
- **Judicial Impact Assessment:** Assess the extra resources needed to handle new cases resulting from new laws, aiding in efficient judicial administration.

4.4. JUDICIAL REFORMS

4.4.1. JUDICIAL APPOINTMENTS

Why in news?

Recently, Supreme Court Registry has refused to accept a petition to end the Collegium system of judicial appointments.

System of Judges Appointment in India

- **Constitutional mandate:** President shall make SC Judges appointments after consulting with CJI and other SC and HC judges as he considers necessary (**Article 124**).
 - While for **HC judges' appointment, President (under Article 217)** should consult CJI, Governor, and Chief Justice of High Court concerned.
- **Collegium system:** Committee of CJI, four senior judges of SC and three members of HC (in case of appointments in the said HCs) take decisions related to **appointments and transfer of judges** in SC and HC.
- **Three judges' cases** have come from 1981 to 1998 which **sets collegium system** for appointing judges.



Important Judicial pronouncements in context of Collegium System

- **First Judges Case, 1981 or S P Gupta Case:** SC ruled that recommendation made by CJI to President can be refused for "**cogent reasons**", thereby giving greater say to executive.
- **Second Judges Case, 1993 (Supreme Court Advocates on Record Association (SCARA) vs Union of India):** CJI only need to consult **two senior-most judges** over judicial appointments and transfers.
- **Third Judges Case, 1998:** CJI should consult with **four senior-most SC judges** to form his opinion on judicial appointments and transfers.

Issues in Judges Appointment/ Collegium system in India

- **Judges appointing judges:** This undermines the separation of powers and the principle of checks and balances.
- **Lack of transparency:** The closed-door nature of appointments creates apprehensions about the process.
- **Administrative challenge:** Appointing and transferring judges is inefficient without a dedicated secretariat or background-check mechanism.
- **Promotion of mediocrity:** Limitation of the choice from HC for appointments to SC, **overlooking several talented junior judges and advocates.**

Steps to ensure transparency in judicial appointments

- **Search-cum-Evaluation Committee (SEC):** Establish SECs, as proposed by the Ministry of Law and Justice, to enhance transparency in judicial appointments through the collegium system.
 - SECs will prepare panels of eligible candidates for collegiums to recommend.
- **Objective Eligibility Criteria:** **Eligibility criteria to judge performance and suitability must be formulated** objectively and must be made public.
- **Inclusive Selection Process:** **Selection process of judges has to be transparent and fair**, which is only possible by involving other two branches i.e. Executive and Legislature in process of appointments.

- The Law Commission recommends a law to restore CJI's primacy while including the Executive in appointments.
- **Public Disclosure:** Make SC collegium decisions public to reduce the secrecy surrounding judicial appointments.

4.4.1.1. ALL INDIA JUDICIAL SERVICES (AIJS)

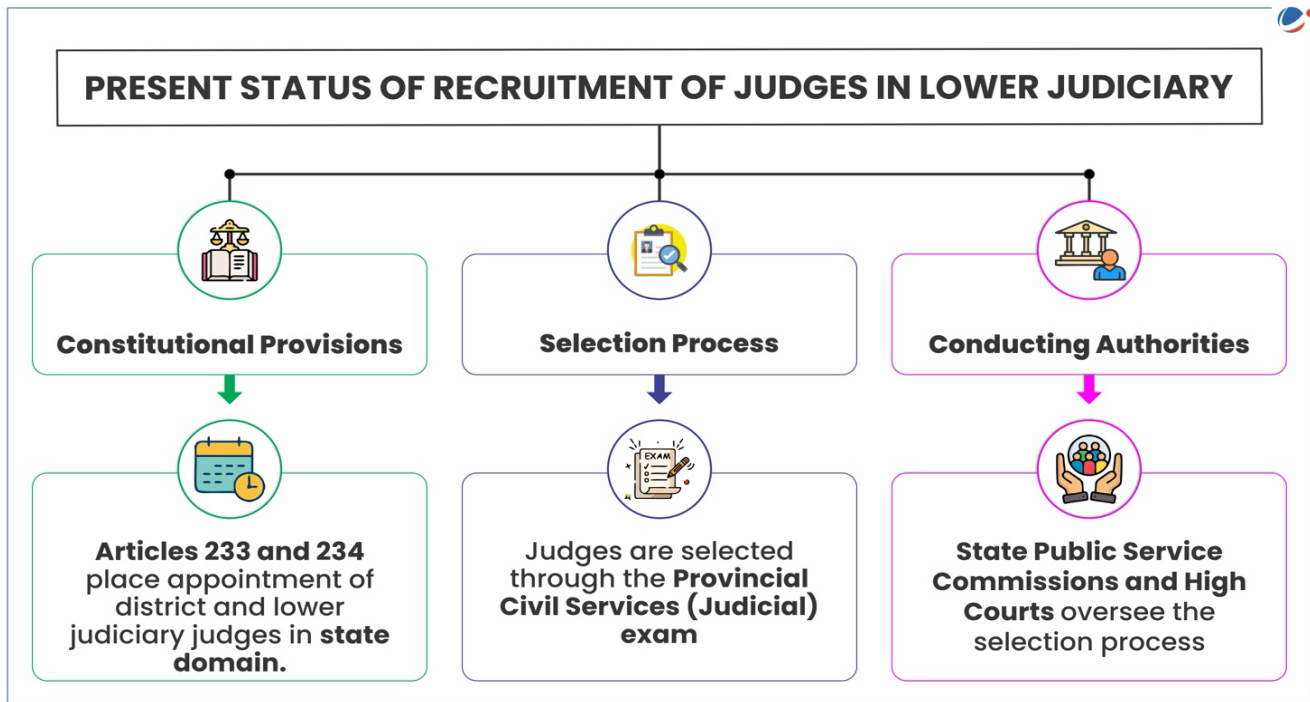
Why in the news?

Recently during the **Constitution Day celebration**, the President of India called for an **All-India Judicial Services (AIJS)** to recruit judges.

About All India Judicial Service (AIJS)

AIJS is a reform that seeks to **centralize the recruitment** of judges at **level of additional district judges and district judges** for all states. In same way that **UPSC conducts central recruitment process** and assigns candidates to cadres.

- **Genesis of AIJS:** First proposed by **14th Report of Law Commission of India** on judicial reforms in 1958.
- **Constitutionality:** Provision of AIJS was included in Article 312 through **42nd Amendment in 1976**.
- **Judiciary's view on AIJS:**
 - In 1992, SC in **All India Judges' Association v. Union of India** directed the Centre to set up an AIJS.
 - In 1996, **First National Judicial Pay Commission (Shetty Commission)** provided a roadmap for creation of AIJS.
 - In 2017, SC took suo motu cognizance of issue of appointment of district judges and **mooted a "Central Selection Mechanism"**.
- **Parliamentary Viewpoint:** In 2006, **Parliamentary Standing Committee** on Personnel, Public Grievances, Law, and Justice in its **15th Report backed the idea of a pan-Indian judicial service**, and prepared a draft Bill.



Need for AIJS

- **Reduce pendency of cases:** Only Kerala and Punjab could achieve case clearance rates of 100% or more at both HC and Subordinate court levels, resulting in improving ease of doing business.



- **Solution to judicial vacancies:** More than 25% of seats are vacant in High Courts across the country.
- **Qualified legal talent:** Induction of qualified legal talent selected through a proper all-India merit selection system (**116th Law Commission Report**).
- **Social Inclusivity:** Reservation in selection process will address the issue of lack of representation of marginalized and deprived sections of society (**India Justice Report 2022**).
- **Improving quality and efficiency of Judiciary**

Issues with setting up an AIJS

- **Structural issues:** E.g. infrastructural issues or varying pay and remuneration across states.
 - **National Commission to Review the Working of the Constitution** was of the view that an AIJS would not be a better alternative to the existing system (2002).
- **Career uncertainty:** Students may have reservations about promotion in AIJS and career growth in initial stages.
- **Local language barrier:** It indirectly affect the efficiency of Judicial Process.
- **Difference of opinion among the States** and HCs.

Way forward to effectively implement AIJS

- **Pilot Project:** Launch a pilot in select states to evaluate effectiveness and feasibility.
- **Stakeholder Consultation:** Consult state governments and high courts in designing the recruitment process to gain broader support.
- **Local Language Issues:** Include a local language proficiency test in the recruitment process.
- **Feedback and Improvement:** Establish a monitoring mechanism to ensure efficient system operation.

4.4.2. REGIONAL BENCHES OF SUPREME COURT

Why in the news?

Recently, **Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice** informed the Parliament about the **government's acceptance** of its recommendation to establish regional benches of SC.

Need of Regional benches of SC

- **Access to justice:** Regional Benches would take justice near to common citizen thereby upholding access to justice which is a fundamental right under Articles 14 and 21.
 - **Article 39A** provides for Equal justice and free legal aid.
- **Reduce geographical bias:** E.g. language barrier, issues in finding lawyers, high cost of travel and stay in Delhi etc.
- **Reduce litigation cost** to common man.
- **Increase number of Judges in SC**, thereby increasing the Judge to Population ratio.
- **Constitutional mandate:** Supreme Court shall sit in Delhi or in such other place or places, as the Chief Justice of India may, with the approval of the President, from time to time, appoint (Article 130).

Challenges in the creation of regional benches

- **Opposition from SC:** SC has been rejecting the proposal for setting up Benches of SC at a place outside Delhi.
- **Affect unitary character of the SC:** Multiple regional benches could lead to more divergent views within SC.
- **Increase Litigation:** Rise of conflicting precedents resulting in increased litigation.
- **Might reduce position of SC:** Regional benches of SC, deciding only appellate matters would reduce position of SC.
- **Case categorization challenges:** Identifying and categorizing cases of constitutional significance is difficult. CJI may have exclusive power to determine which case is to be classified as a case of Constitutional importance.

Way Forward

- **Recommendations of Law Commission's recommendations on regional benches of SC**
 - **95th Report of Law Commission (1984):** SC should consist of two Divisions, namely, Constitutional Division and Legal Division.
 - **229th Report of Law Commission (2009):** Recommended setting up **Constitution Bench at Delhi and four Cassation Benches** in Delhi, Chennai/Hyderabad, Kolkata and Mumbai.
- **Promote Hybrid/Virtual hearing:** Virtual court may help speedy disposal of cases, reduce litigation costs and address geographical barriers in access to justice.
- **Learning from the system prevalent in other countries:** E.g. France which implements a system comprising a separate court of appeal and courts of cassation.
- **Constitutional amendment for separate court:** Government may explore the possibility of a **constitutional amendment to separate the functions of SC** into constitutional and appellate.
- **Facilitate Judicial Reforms:** E.g. Enhancement of number of judicial staff and judges, improve judicial infrastructure, promote judicial accountability etc. to improve the efficiency of the judiciary at all levels.

4.4.3. FAST TRACK SPECIAL COURTS (FTSCS)

Why in the news?

Union Cabinet approves continuation of Fast Track Special Courts (FTSCs) Scheme until March 31, 2026.

Fast Track Special Courts (FTSCs) Scheme

- Launched in 2019, FTSCs is a **Centrally Sponsored Scheme** and implemented by **Department of Justice, Ministry of Law & Justice**.
 - Central Share is to be funded from **Nirbhaya Fund**, aimed at **enhancing the safety and security for women** in country.

About Fast Track Special Courts

- **Fast Track Special Courts (FTSCs):** Dedicated to handling pending rape and POCSO Act cases, providing swift justice.
- **Criminal Law (Amendment) Act 2018:** Introduced stringent punishments, including the death penalty for rape, leading to FTSCs' creation.
- **Integration:** Linked to National Judicial Data Grid.
- **Operational Reach:** 761 FTSCs, including 414 exclusive POCSO Courts, in 30 states and UTs, have resolved over 1.95 lakh cases

Issues with Fast Track Special Courts



Inadequate number of judges

In 2023, 1 Special Court for 12.5 lakh people (Delhi), and for 10 lakh people (UP)



Inadequate Staff

Delay in getting reports from understaffed forensic science laboratories etc.



Lack of Legislative foundation

No legislation outlines the purpose or time-bound procedures for these courts



Way Forward

- **Increase FTSCs:** Expand the number of courts, focusing on both metropolitan and remote areas.
- **Monitoring and Evaluation:** Regularly assess court performance.
- **Selection and Training:** Choose judicial officers and prosecutors based on skills and provide specialized training.
- **Collaboration Mechanisms:** Foster cooperation with court agencies and NGOs.
- **Victim Support Services:** Ensure comprehensive support including interpreters, social workers, and trauma reduction measures.

4.5. JUDICIAL ACCOUNTABILITY

Why in news?

Recently, the **Orissa High Court** became the **first in the country to publish an annual report** that gives insights into the performance of the state's judiciary.

About Judicial Accountability

- It is defined as the set of mechanisms aimed at **making judges and courts personally or institutionally responsible for behaviours and decisions** contrary to constitutional or legal standards.
- It improves efficiency and transparency in delivering judgements, ensures faith of citizens in democratic institutions etc.
- Constitution follows **principle of separation of power** where checks and balances exist on every organ's conduct.
 - However, being the protector of Fundamental Rights, judiciary is required to be independent and outside influence of political and economic entities.
 - **Under Article 235**, Constitution provides for '**control**' of High Court over the subordinate judiciary clearly indicating the provision of an **effective mechanism to enforce accountability**.

Issues with Judicial Accountability

- **Collegium System:** Judges appointing judges concentrates power among judges, promoting nepotism and violating checks and balances.
- **In-house Functioning:** Judiciary's opaque functioning in case allocation, appointments, and disciplinary actions is informal and inefficient.
- **Information Asymmetry:** Judiciary remains largely outside the RTI Act, restricting information access and hindering accountability.
- **Judicial Overreach:** While judicial activism protects rights, instances of overreach, like scrapping the NJAC Act, violate the separation of powers principle.

Judicial Independence vs Judicial Accountability

- Judicial independence means **absence of judiciary dependence on other organs of State** i.e. Executive and Legislature, along with power of judiciary to administer justice impartially and honestly.
 - **Provisions highlighting judicial independence** include Security of tenure, no discussion on conduct of judges in Parliament, Prohibition on practice after retirement.
- Both the terms are interrelated in sense that **excessive independence can decrease accountability and vice versa**. So, it is necessary to maintain balance between both.
 - This balance is achieved by making judiciary accountable for its actions through **removal of judges by parliament, provisions for appeals**, revision and review of the orders of courts, ethical code of conduct for judges etc.

Steps taken to promote Judicial Accountability

- **In-House Procedure:** Formulated to investigate allegations of misbehavior or misconduct, deemed fit for inquiry by the CJI and senior colleagues.

- **Judicial Accountability Bill, 2023:** Under consideration to set judicial standards, ensure accountability of judges in SC, HC, and District Courts, and establish a mechanism for investigating complaints.
- **Use of Technology: LIMBS (Legal Information Management & Briefing System),** a web-based application, monitors cases involving the central government of India effectively and transparently.

Conclusion

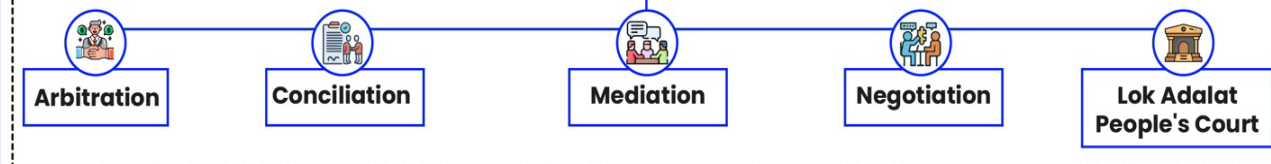
A more **formal and comprehensive Code of Conduct for Judges** should be put in place which is enforceable by law. Also, **Annual reports on functioning and efficiency** should be published to foster accountability as recently done by Orissa High court.

4.6. ALTERNATIVE DISPUTE RESOLUTION (ADR) AT A GLANCE

Alternative Dispute Resolution (ADR)

ADR is a process in which disputes are addressed and settled outside of courtroom. It offers to resolve **all type of matters** including civil, commercial, industrial etc. and uses **neutral third party** to communicate, and resolve dispute.

Five types of ADR



Other steps to promote ADR in India

- **Arbitration and Conciliation Act, 1996** and **Arbitration and Conciliation (Amendment) Act, 2019** for establishment of the **Arbitration Council of India**.
- **Legal Services Authorities Act, 1987.**
- **New Delhi International Arbitration Centre (NDIAC) Act, 2019** for facilitating institutional arbitration.
- **Commercial Courts Act, 2015** provides for such Commercial Courts for **adjudicating commercial disputes**.

4.6.1. MEDIATION ACT, 2023

Why in the news?

Parliament received the assent of the President on the Mediation Act, 2023 to promote mediation as a preferred mode of Alternative dispute resolution (ADR) in India.

About Mediation Act, 2023

- **Defines Mediation:** It includes **expression mediation, pre-litigation mediation, online mediation, community mediation,**
 - whereby, parties attempt to reach an **amicable settlement** of their dispute with assistance of a third person **referred to as mediator**.



- **Voluntary Pre-litigation Mediation:** Parties can attempt to settle **civil or commercial disputes** by mediation before approaching any court or certain tribunals.
- **Disputes not fit for mediation:** relating to claims against minors or persons of unsound mind, involving criminal prosecution etc.
- **Timeline for conducting Mediation:** Must be completed within **120 days**, which may be extended by another **60 days** with the **consent** of the parties.
- **Establishment of Mediation Council of India (MCI):** To **make regulations for registration of mediators.**
- **Defines Mediation Service Providers:** As a body/ organization **recognized** by MCI for conducting mediation.
- **Enforceability:** Agreements resulting from mediation will be **binding and enforceable** in the same manner as court judgments.
 - It can be challenged on grounds of **fraud, corruption, impersonation, and disputes not fit for mediation only.**

Need of Mediation Act

- **Dedicated Act:** Presently, there is no comprehensive law governing the various aspects of mediation.
- **Reduces burden of court:** Over **5 crore** cases were pending in various courts (Ministry of Law and Justice).
- **Amicable Solution:** Helps to preserve relationships amongst disputants and reduces chance of any future disputes.
- **Fulfilling Singapore Convention commitment:** This is in line with India's commitment as a signatory to **United Nations Convention on International Settlement Agreements Resulting from Mediation.**
- **Reduces cost of Mediation:** Act introduces the concept of online mediation which can reduce the travel cost of litigants.
- **Less Time Consuming** as compared to courts.

Concerns related with the Act

- **Online Mediation:** Only 55% of India have access to internet and only 27% possess compatible devices (NITI Aayog report).
- **Mediation Council requires prior approval** from central government before issuing regulations. This raises **conflict of interest** as the government is biggest litigant in country.
- **Issue of International Mediation:** It does not provide for enforcement of settlement agreements resulting from international mediation conducted outside India.
- **No punishment/liability for breaching confidentiality.**

Way forward

- **Include Government-related disputes:** Standing committee had recommended that government-related disputes be included in the Act.
- **Confidentiality agreement:** With the start of mediation to ring-fence, any potential breach of confidentiality needs to have a formal agreement.
 - Also, there is a **need for the provisions of punishment/liability for breaching confidentiality**
- **Reducing the disputes from list** to ensure that a maximum number of disputes go through pre-litigation mediation.

4.7. FREE LEGAL AID AT A GLANCE

Free Legal Aid

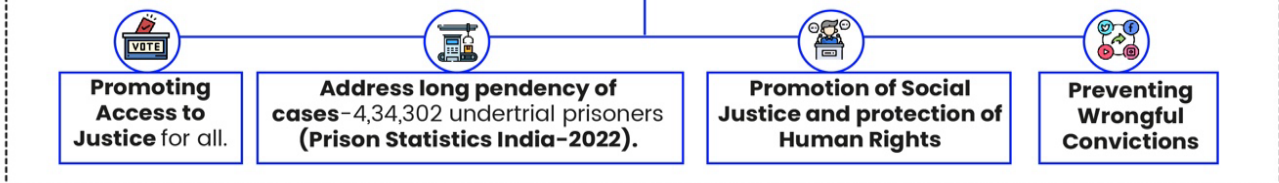
Free legal aid is **provision of free legal services in civil and criminal matters for those poor and marginalized people** who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding.



Constitutional Provisions related to Free Legal Aid

- **Article 14:** Guarantees equality before the law for all individuals within India's territory
- **Article 22(1):** Provides protection to individuals arrested or detained, ensuring their right to legal consultation and representation.
- **Article 39A:** Mandates the State to ensure justice with equal opportunity, including free legal aid provision.

Why free legal aid?



Government Initiatives for legal aid

- **National Legal Services Authority (NALSA)**, under the Legal Services Authorities Act, 1987.
- **Designing Innovative Solutions for Holistic Access to Justice in India (DISHA) scheme** (2021-2026)
- **Nyaya Bandhu Platform:** Connects Pro Bono Advocates with beneficiaries and promotes Pro Bono culture.
- **Tele-Law Service:** Connect beneficiaries with lawyers via tele/video conferencing.
- **Legal Aid Defence Counsel System (LADCS):** Ensures efficient legal aid in criminal cases by engaging full-time lawyers across 676 districts nationwide.
- **Nyaya Mitra programme:** Facilitate disposal of 15-year-old pending cases at district level.

4.7.1. NATIONAL LEGAL SERVICES AUTHORITY (NALSA)

Why in the news?

Parliamentary Standing Committee submitted its Report on **“Review of the working of Legal aid under the Legal Services Authorities Act, 1987”**.

About National Legal Services Authority (NALSA)

- NALSA oversees **the implementation of legal aid policies and programs and monitors** legal aid activities across India.
- **NALSA grants authority to oversee legal aid initiatives to** Legal Services Authority at National/State/District Level; Taluka/Sub divisional Legal Services Committee; and HC and SC Legal Services Committees.



- **Core principle of NALSA:** Ensures impoverished and underprivileged access justice through free legal services.
- **Scope of Legal Aid:** Extends to courts, tribunals, and bodies with judicial or quasi-judicial powers.
- **Funding:** Funded by the central government and distributed to state and district legal services authorities.
- **Coverage:** Covers weaker sections like women, children, SC/ST members, industrial workmen, PwD, persons in custody, and human trafficking victims.

Functions of NALSA

- **Legal Aid and Assistance:** Includes advocate representation, process fee payments, document preparation, drafting, and translation
- **Participation in PILs:** Litigation for social justice on behalf of the marginalized **under Section 4(d) of Legal Services Authorities Act.**
 - **Protection of fundamental rights** of abandoned and destitute women/widows in Vrindavan.
 - **Ex: NALSA vs. Union of India (2014)** recognizes trans-genders to be third gender.
- **Lok Adalats and Mediation:** Aimed at resolving legal disputes expeditiously and amicably, thereby reducing the burden on the formal judicial system.
- **Victim Compensation:** Through schemes like **“Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes”**.

Issues identified in report and Key recommendations

Issues	Recommendations/Observations
<ul style="list-style-type: none"> • Lack of Awareness and Legal Education: Despite over 80% eligibility, only 15 million have used legal aid since 1995 (India Justice Report 2019). 	<ul style="list-style-type: none"> • Execute mass media campaigns for legal aid awareness. • NALSA should prioritize assisting vulnerable sections, particularly undertrial prisoners, and study cases of prolonged detention and bail challenges.
<ul style="list-style-type: none"> • Budgetary Constraints and Allocations: 0.75 paise per capita annually for year 2017-18 (India Justice Report, 2019). 	<ul style="list-style-type: none"> • Increase Grant-in-aid to NALSA substantially to bridge justice gap.
<ul style="list-style-type: none"> • Role of Lawyers and Compensation: Lawyers refrain from pro bono due to fee caps; receive nominal honorarium ranging from 1,500 to 7,500 rupees. 	<ul style="list-style-type: none"> • Mandate lawyers to engage in annual pro bono work. • Senior Advocate Panels for pro bono services in District Judiciary, High Courts, and Supreme Court. • Merit Certificates to Recognize lawyers' pro bono contributions for judicial career advancement.
<ul style="list-style-type: none"> • Challenges faced by Lok Adalats: Limited powers and procedural constraints, inability to compel parties to appear causing delays and insufficient infrastructure and resources. 	<ul style="list-style-type: none"> • Revise powers and procedures of Lok Adalats and equip them with modern technology, adequate resources, and training to streamline processes and minimize delays.
<ul style="list-style-type: none"> • Under-utilisation of Para-Legal Volunteers (PLVs). 	<ul style="list-style-type: none"> • Train PLVs comprehensively, provide resources, fair compensation, and appreciate PLVs' contributions to enhance motivation.
<ul style="list-style-type: none"> • Shortage of staff and unfilled vacancies: 20 staff members out of its sanctioned 34 positions (December, 2022). 	<ul style="list-style-type: none"> • Fill vacant positions promptly and consistently to prevent accumulation of unfilled vacancies.



5. ELECTIONS IN INDIA

5.1. CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS ACT, 2023

Why in the news?

President gave her assent to **Chief Election Commissioner (CEC) and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023**.

Key provisions of the Act

Act replaces **Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991**.

- **Aim:** Regulate appointment, conditions of service and term of office of CEC and other ECs, and procedure for transaction of business by Election Commission.
- **Selection committee:** CEC and other ECs shall be **appointed by President on recommendation of a Selection Committee** consisting of:
 - **Prime Minister** as Chairperson.
 - **Leader of Opposition/leader of largest opposition party** in Lok Sabha.
 - **Union Cabinet Minister** to be nominated by Prime Minister.
- **Search Committee** shall prepare a panel of five persons for consideration of Selection Committee, for appointment as CEC and other ECs.
 - It is to be **headed by Minister of Law and Justice** and comprising **two other members not below the rank of Secretary** to Government of India (GoI).
- **Eligibility criteria for appointment as CEC and ECs,**
 - Persons who are holding or have held a **post equivalent to rank of Secretary** to GoI and
 - Should be **persons of integrity, who have knowledge of and experience in management and conduct of elections**.
- **Salary, term of office and reappointment of CEC and ECs**
 - **Salary:** Equal to salary of a Judge of SC.
 - **Term of office: 6 years** from date on which he assumes his office or **till he attains age of 65 years**, whichever is earlier.
 - **Not eligible for Reappointment.**
- **Removal and resignation:** CEC can only be removed in a manner and on grounds similar to that of SC judge whereas EC can be removed upon CEC recommendation.
 - CEC or any EC may **resign at any time by writing to the President**.

Concerns highlighted with the Act

- **Independence of Election Commission:** Selection Committee has a majority of members from government of the day.
 - Act drops the CJI from selection committee, as was ruled by **SC in Anoop Baranwal case**.
- **Vacancy in selection Committee:** Example, Post of Leader of Opposition in Lok Sabha may be vacant, if Lok Sabha is dissolved. In such case, Selection Committee will consist exclusively of Prime Minister and Union Cabinet Minister.
- **Undermining the role of search committee:** Act provides that Selection Committee may go beyond the names suggested by the Search Committee.
- **By limiting eligibility criteria** of CEC and ECs to civil servants, act may exclude other qualified individuals for post.
- **Lack of parity in removal of CEC and ECs.**
- **Silence over post-retirement jobs**, similar to 1991 Act, of CEC and ECs to any post/office under government.

Way forward

- **Balanced composition of Selection Committee:** Goswami Committee on Electoral Reforms (1990) and 255th Law Commission Report had recommended that,
 - Select committee for choosing CEC and ECs, should consist of Prime Minister, Leader of Opposition of Lok Sabha and CJI.
- **Post retirement:** Goswami Committee (1990) had recommended that CEC and ECs should not be eligible for any further office under government, including office of Governor.
- **Administrative Independence:** Goswami Committee and ECI have recommended an independent secretariat for functioning of the ECI.
- **Equal constitutional protection to all members of the ECI:** As per 255th Law Commission Report, Article 324(5) should be amended to equate the removal procedures of ECs with that of CEC.

5.2. ELECTORAL REFORMS AT A GLANCE

Electoral Reforms

Election is the process of **voting to choose an individual at regular intervals** for holding public office through free will of the people in a representative democracy.

Role of Elections in a Democracy

- Make **responsible and accountable government**
- **Symbolic of Nationalism and Patriotism** by bringing focus on common fate.
- **Self-corrective system** by keeping checks on ruling parties and made to consider the demands of the public.
- **Facilitate social and political integration** by linking citizens to each other and thereby confirm the viability of the polity.
- **Taking ownership of democratic process** through expressing partisanship and alienation from the political community.

Issues associated with election process in India

Financing of elections

Misuse of Government Machinery

Criminalisation of Politics and Politicization of Criminals

Influence of Social-Media

Dummy Candidates in Political Parties

Reforms for the betterment of electoral process

- **Promoting Transparency:** Mandatory declaration of income sources
- **Increasing Voter Participation:** Lowering of Voting age; Voting through postal ballot; Election Laws (Amendment) Bill, 2021
- **Leveraging technologies to strengthen voting process:** Electronic Voting Machines; NOTA option
- **Creating a level playing field:** Model code of conduct; Ceiling on election expenditure; Restriction on exit polls.

5.2.1. SIMULTANEOUS ELECTIONS

Why in the news?

High-Level Committee appointed by Central Government has submitted a report to President on one nation, one election which makes recommendations on simultaneous election.

About Simultaneous Election

- **Synchronize Lok Sabha, State Assemblies elections, Municipalities and Panchayats** such that voters in a particular constituency vote on the same day.
- It does not mean that voting across the country for all elections needs to happen on a single day.

Committees recommended for Simultaneous Elections

- Law Commission of India (170th Report of 1999, 255th Report of 2015, Draft Report 2018).
- National Commission to Review the Working of the Constitution, 2002.
- Parliamentary Standing Committee Report in 2015.
- NITI Aayog in its working paper (2017).

Need for Simultaneous Elections

- **Enhance Administrative efficiency:** By reducing frequent deployment of teachers, security personnel etc. in State and local elections.
- **Focus on development programs:** As frequent imposition of MCC halt development programs in poll-bound areas/State.
- **Cost savings:** For instance, Central government's total expenditure on 2024 general elections is over Rs 5000 crore.
- **Enhanced Voter Turnout:** For instance, in 1999, simultaneous elections in Karnataka, Maharashtra, and Andhra Pradesh held along with national elections led to 11.5% surge in voter turnout.

Issues with simultaneous election and recommendation given by the Committee

Issues	Committee observations/recommendations
Legal challenges to amend Constitution to synchronise election	<ul style="list-style-type: none"> • Two steps to manage this challenge: <ul style="list-style-type: none"> ○ Firstly, hold simultaneous elections for Lok Sabha and State Legislative Assemblies. For this, <ul style="list-style-type: none"> ✓ Constitutional Amendment Bill will be introduced amending Article 83 (Duration of Houses of Parliament), and Article 172 (Duration of State Legislatures), and insertion of Article 82A will be made. ○ Secondly, within 100 days of the Sabha and State Legislative Assemblies elections, synchronize the elections for Municipalities and Panchayats. For this purpose, another Constitutional Amendment Bill will be introduced in which, <ul style="list-style-type: none"> ✓ Article 324A will be insert (to synchronise elections of Municipalities and Panchayats) and amendment to Article 325 (to enable Single Electoral Roll and Single Elector’s Photo Identity Card).
Issue of hung Parliament/Assembly	<ul style="list-style-type: none"> • Committee proposes fresh elections for House of the People, serving only unexpired term of the preceding full term. Similarly, for State Legislative

and premature dissolution	Assemblies, new elections shall last until the House of the People's full term ends.
Altering state elections would violate rights of the states	<ul style="list-style-type: none"> Report counters the concern by mentioning Articles 327 (empowers Parliament to make provisions with respect to Parliament and state elections).
Synchronisation of elections to the House of the People and State Legislative Assemblies	<ul style="list-style-type: none"> President of India issue a notification on the date of first sitting of House of the People after a General election, designating it as the appointed date for synchronization of elections. An Implementation Group should be constituted to oversee the execution of recommendations.
Related to logistics and manpower , including EVMs, VVPATs	<ul style="list-style-type: none"> ECI draw up a plan for making logistical arrangements. Commission can estimate in advance for procurement of equipment, such as EVMs and VVPATs, deployment of polling personnel and securities forces, and make other necessary arrangements.

Conclusion

'High-Level Committee' reflects a serious consideration of synchronizing elections in India. Addressing the challenges through transparent and inclusive dialogue with stakeholders, including legal experts, state governments is crucial to ensure a comprehensive and inclusive approach to 'One Nation, One Election'.

5.2.2. ELECTORAL FUNDING

Why in the news?

Recently, SC in **Association for Democratic Reforms vs Union of India (2024)** unanimously struck down Electoral Bonds Scheme (EBS), which aimed to enhance transparency in electoral funding.

Highlights of judgement

Key question	SC verdict
Whether non-disclosure of information on voluntary contributions to political parties is violative of RTI?	<ul style="list-style-type: none"> The EB Scheme, by anonymizing contributions, violates the Right to Information under Article 19(1)(a) and is therefore unconstitutional. Accordingly, amendments made by Finance Act, 2017 to Income Tax (IT) Act 1961, Representation of Peoples Act 1951, and Companies Act 2013, to allow donations through EBs have been held to be unconstitutional.
Whether unlimited corporate funding to political parties as envisaged by amendment to Companies Act violates the principles of free and fair elections?	<ul style="list-style-type: none"> Amendment to Companies Act permitting unlimited corporate contributions to political parties is arbitrary and violative of Article 14. Court emphasised the amendment's authorisation of unrestrained corporate influence in elections, which contravenes the principles of free and fair elections and political equality.

Other Key highlight of the judgement

- EBS not proportionally justified to curb black money:** Relying on Proportionality test, court held that government **did not adopt the least restrictive method** to achieve balance in **rights of informational privacy** and **right to information** of political contributions.
- Right to privacy of political affiliations:** It only extends to contributions made as a genuine form of political support. It does not extend to contributions which may be made to **influence policies**.

Concerns associated with Electoral Funding

- Huge expenditure:** Around 1.35 lakh crore was spent during 2024 Lok Sabha elections as compared to Rs 55,000-60,000 crore spent during 2019 (Centre for Media Studies report).

- **Disrupts Level playing field:** Increased use of money in elections deters small parties and independent candidates.
- **Increased Cash Transactions:** Increased cash transactions make it difficult to trace sources of funds. Political parties don't have to disclose donations below ₹20,000.
- **Growing Corporate and political parties' nexus.**

Steps taken to curb election expenditure

- **Limit expenditure:** By ECI for candidates for Lok Sabha constituencies is ₹75 lakh to ₹95 lakh and limit for Assembly constituencies is ₹28 lakh to ₹40 lakh.
- **Election expenditure monitoring mechanism:** Adopted to curb the misuse of money power during elections to ensure free and fair elections.
- **Expenditure Observer:** To supervise and guide entire election expenditure monitoring personnel engaged in the constituency.

Way forward

- **State funding of elections:** Endorsed by committees like **Indrajit Gupta Committee (1998)** to establish a fair playing field for parties.
- **Bringing Donors details and Political Party under RTI:**
 - Details of all donors should be available for public scrutiny under RTI as practised in countries like **Nepal, Germany, France, USA** and Japan to bring transparency in election funding.
- **Proactive Disclosure: Mode of payment of all donations** (above and below Rs 20,000), membership fees, etc. **can be declared by parties** in the 'Schedules' of their audit reports, submitted annually to Income Tax department and ECI.
- **ECI Recommendations:**
 - Tax exemption awarded only to those political parties which contest and win seats in Lok Sabha/ Assembly elections.
 - Details of all donors who donate above **Rs 2,000** be declared in the public domain.

5.2.3. LOWERING MINIMUM AGE TO CONTEST POLLS

Why in the News?

Parliamentary Standing Committee has recommended reducing the **age for contesting Lok Sabha and Assembly elections to 18 years**, which is the minimum age of voting in India.

Rationale: Youthful representation in legislative bodies is crucial as they advocate for peers, address youth-centric concerns, and transform political discourse, influencing both internal and external government discussions.

Provision

- Presently, the **age** for contesting elections for
 - **Lok Sabha** (Article 84) and **Legislative Assembly** (Article 173) is **25 years**.
 - **Rajya Sabha** (Article 84) and **Legislative Council** (Article 173) is **30 years**.

Issues

- **Only 2.2% of Lok Sabha MPs are under the age of 30.**
- **Lack of parity between the minimum age of voting (18 years) and contesting elections (25 years)** has led to low participation by India's youth population in the political arena.
- **As per ECI, it is unrealistic to expect 18-year-olds** to possess the **necessary experience and maturity** for these responsibilities.

Recommendations

- **Reduce Age Requirement:** Lower the minimum age for Assembly Elections to allow young individuals equal opportunities in democracy.
- **Civic Education:** Provide comprehensive civic education programs to equip young people with political engagement skills.
- **Collaborative Efforts:** Governments, political parties, and youth organizations should collaborate to enhance youth participation in decision-making.

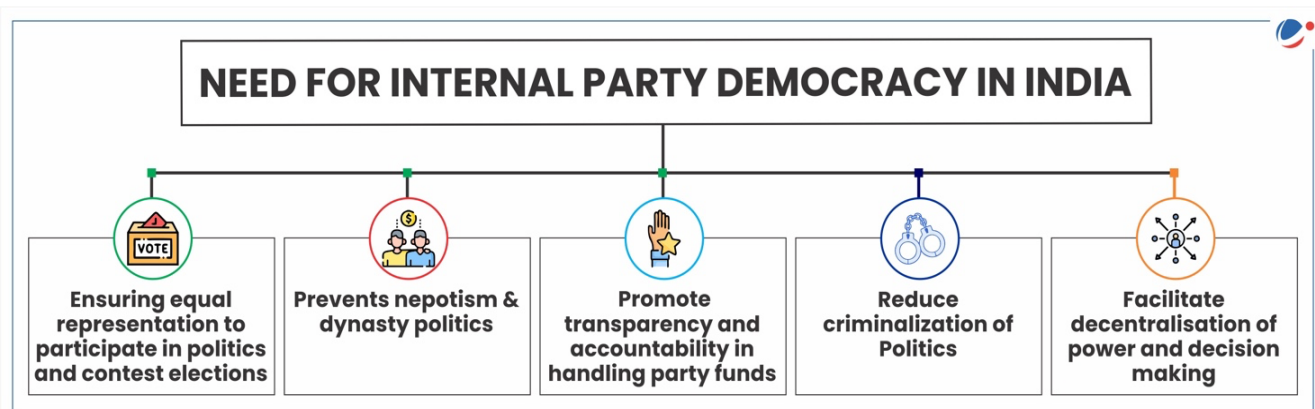
5.2.4. INNER PARTY DEMOCRACY

Why in News?

Election Commission is pushing for internal democracy within political parties in India.

About Inner Party Democracy

- Inner party democracy refers to **inclusion of party members in the decision making** and deliberation within the party structure.
- It **helps to** ensure that party produces better policies and political programmes.
- In India, there are **no explicit provisions in Constitution** that lays down guidelines for regulating conduct of political parties.
 - **Only Section 29 (A) of RPA, 1951** mandates registration of political parties.



Challenges for setting up Internal-Party Democracy

- **Inadequate Power with Election Commission:** In the 2002 case 'Indian National Congress vs Institute of Social Welfare & Others', SC ruled that the ECI can't penalize parties for violating inner-party democracy.
- **Lack of Legal Mandate:** There is no legal basis to mandate elections within political parties.
- **Strict Anti-Defection Law:** The anti-defection law binds legislators to the party whip, discouraging individual voting preferences.
- **Resistance from Dynastic, Caste, and Religious Parties:** These parties often resist reforms and exhibit opaque financial practices.
- **Elitism in Party Leadership:** Party leadership is often determined by an inner circle, leading to elitism within parties.

Way Forward

- **Constitutional status for political parties:** Like Germany, give political parties constitutional status, ensuring their internal organization adheres to democratic principles.
- **Organizational elections:** Regulations should mandate regular internal elections at all levels, defining terms for office-bearers.
- **Internal elections for leadership positions** should be carried out through committee.



- **For instance**, in U.K., Conservative Party has a Central Council and an Executive Committee which elects its President, a Chairman and Vice Chairmen at its annual meeting.
- **Empowering ECI**: To deregister parties that fail to comply with rules.
- **State funding of political parties**: This could bring in equity and accountability among parties.
- **Implement suggestions from committees**
 - Committees like **Dinesh Goswami Committee, Tarkunde Committee and Indrajit Gupta Committee** has argued for more transparent working of the political parties in country.
 - **Draft Political Parties (Registration and Regulation of Affairs) Act, 2011** aims to regulate constitution, functioning, funding, accounts and audit, and other affairs of political parties participating in elections.

5.3. CRIMINALIZATION OF POLITICS

Why in the News?

Recently, ADR released a report titled ‘**Analysis of Sitting MPs from Lok Sabha and Rajya Sabha of India 2023**’.

About Criminalization of Politics

- 2nd ARC report in its ‘Ethics in Governance’ report stated it as participation of criminals in electoral process.

Causes of Criminalization of Politics

- **Winnability of candidates**: Chance of winning is twice compared to other candidates (ADR report).
- **Delays in conviction of cases**: Nearly **5,000 cases pending against politicians in Supreme Court** in 2023.
- **Legal loopholes**: Section 8 of RPA, 1951, bans convicted politicians from contesting. However, those facing trial, no matter how serious the charges, are free to contest.
- **Limited powers given to Election Commission**. For instance, it has power to register an association of people as a political party, but it cannot to de-register a political party.

Impact of Criminalization of Politics

- **Criminalization of Political Parties**: This is because the **criminal elements** can gain **control of political parties** and using them for their benefit. **Inner-party democracy** also gets adversely impacted.
- **Affects working of investigation and prosecution agencies**: Nexus between criminal-politician can influence working of agencies.
- **Pending cases against lawmakers**: 5,097 cases are pending against lawmakers (**SC amicus curiae report (2022)**).
- **Institutionalized corruption and trust erosion**: India ranked **85th out of 180** countries (2022 **Corruption Perceptions Index**).

Measures to check Criminalization of Politics

- **Legislative Measures: Section 8(3) of RPA 1951** says any lawmaker sentenced to at least two years in jail remains disqualified for six years upon their release.
 - Such a disqualification is enabled by **Article 102 (1)** of Constitution, (person can be disqualified under any law enacted by Parliament).
 - Similar provision exists for states under **Article 191(1)**.
- **Web portal**: Launched by ECI for **political parties to file their financial accounts online**.



Important Judicial Pronouncements in context of criminalization of politics

- **Union of India v Association for Democratic Reforms (2002):** SC stated that electors have a **fundamental right** to know the antecedents of candidates.
- **Peoples Union for Civil Liberties (PUCL) v Union of India (2004):** SC declared **Section 33B** of RPA 1951 as **unconstitutional** and **void**. The section allowed candidates to furnish information only under the Act.
- **Lily Thomas v Union of India (2013):** SC ruled that **Section 8(4) of RP, 1951** as unconstitutional.
 - **Section 8(4) of RPA** earlier allowed convicted MPs, MLAs and MLCs to continue in their posts, provided they appealed against their conviction/sentence in higher courts within **three months of the date of judgment by the trial court**.
- **Public Interest Foundation v. Union of India (2018):** SC ordered **political parties** to publish the criminal records of their candidates on their websites, social media handles, and newspapers.

Way forward

- **Lifetime ban for convicts from polls:** ECI had mentioned it in the electoral reforms proposals published by it in 2004 and 2016.
- **Hybrid electoral System:** As suggested by **170th Law Commission Report on the hybrid system** i.e. 75% through first past the post (FPTP) and 25% through proportional system.
- **Punishment for filing of false affidavits:** Law Commission in its **244th Report** titled 'Electoral Disqualification', suggested punishment should be enhanced to a minimum 2 years imprisonment and such an offence must also be made a ground for disqualification.
- **Internal democracy for political parties:** National Commission to Review the Working of the Constitution (NCRWC) Report suggested a dedicated legislation for inner-party democracy.
- **Amending RPA, 1950:** To debar persons from contesting elections against whom heinous nature crimes are pending.

5.4. MODEL CODE OF CONDUCT (MCC)

Why in the news?

In response to violations of Model Code of Conduct during Lok Sabha elections, ECI has recently issued directives to political parties and their representatives to utilise social media platforms ethically.

Model Code of Conduct (MCC)

- **Genesis:** First introduced in **state assembly elections in Kerala in 1960**.
- **Relevant Constitutional provisions:** **Article 324** (power of ECI to supervise elections to Parliament and State legislatures).
 - **In 2014, EC banned certain political leaders** from conducting public events and instructed State Government to start criminal proceedings against them **for hate speech**.
- **Scope of applicability:** All political parties, their candidates and polling agents, government in power, and all government employees.
- **Duration of applicability:** Since election schedule is announced till the results are announced (this period has been upheld by Punjab & Haryana High Court in **Harbans Singh Jalal v. Union of India & Others** in 1997).

Issues associated with the implementation of MCC

- **Effectiveness:** The lack of statutory backing and defined punitive measures weakens enforcement, though some provisions, like Section 123(4) of RPA 1951 against publishing false statements, are enforceable.
- **Lacks comprehensive guidelines: to regulate and check violations on digital platforms** (Facebook, Twitter, etc.), leading to misinformation and hate speech.
- **Short duration:** For instance, acts like hate speech, which may contravene the MCC, are not taken into cognizance by ECI even if they happen immediately before the announcement of MCC.
- **Policy paralysis:** Imposes restrictions on government's ability to announce new policies, schemes, or projects during the election period.

Need for legal backing to MCC

Many experts, including Standing Committee on Personnel, Public Grievances, Law and Justice, suggested making MCC legally bindings. However, the ECI is against, it due to the following reasons:

- **Spirit of consensus:** Strength of the MCC lies in its **moral binding** on all stakeholders. Legal binding would affect the spirit of consensus reached.
- **Existing Enforcement:** Most provisions of the MCC are already enforceable through other statutes.
- **Time Constraints:** Elections must be completed within a relatively short time (around 45 days), while judicial proceedings may typically take longer.

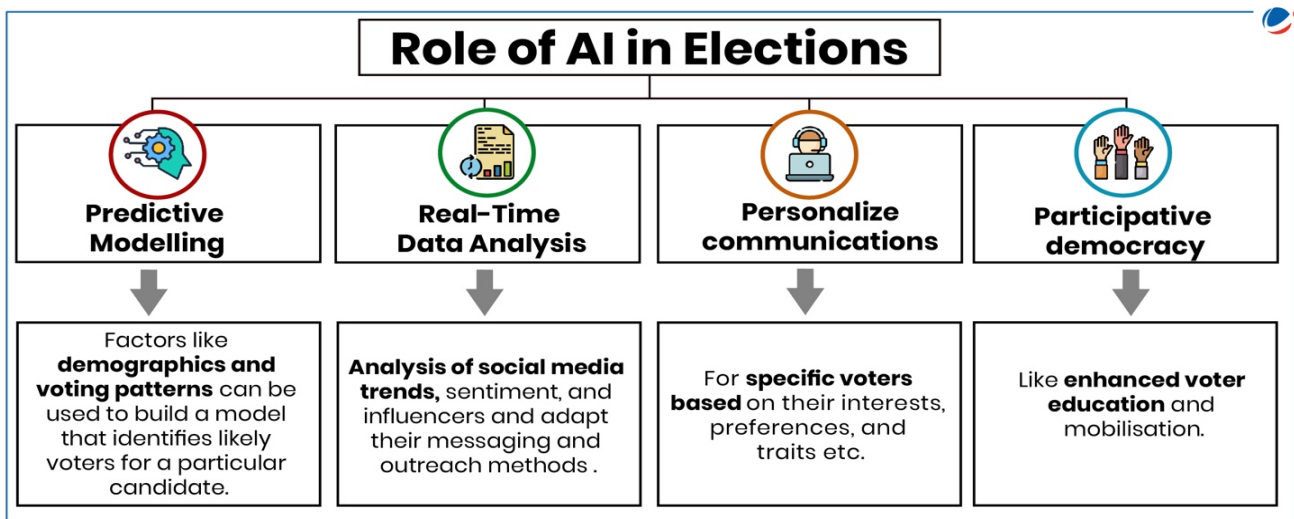
Way Ahead

- **Outline graded punitive measures:** For example:
 - First and second violation could attract a **ban on campaigning for a short and longer period** respectively.
 - Third instance would **debar concerned candidate/ political functionary** for entire period while MCC is in force.
- **Penalizing parties:** MCC should include **penalties**, fines or actions under 'The Election Symbols (Reservation and Allotment) Order', for political parties whose members or star campaigners breach it.
- **Prompt action:** Punitive actions should be taken **within 72 hours** of the violation. A **standardised procedure** should be established for the same.
- **Periodic review:** The advent of **digital age**, AI and other emerging technologies necessitates periodic updates to the MCC to address emerging challenges like misuse of social media.

5.5. ARTIFICIAL INTELLIGENCE AND ELECTIONS

Why in the news?

Five Swiss political parties have signed a code of conduct agreeing to limit the use of Artificial Intelligence (AI) in their campaigns for the federal elections.



Concerns Associated with AI in Elections

- **Manipulation:** By creating deepfake videos, misinformation, distorting truth etc.
- **Lack of regulation:** Regulations specifically addressing the use of AI in elections.
- **Accuracy and Data Quality:** Effectiveness and precision of AI systems deployed in political campaigns are hindered by the accuracy and reliability of algorithms used, as well as quality and quantity of available data.
- **Cyber security vulnerabilities:** Example, Use of AI by Cambridge Analytica impacted data privacy, political campaigning, and build voter profiles.

Way forward

- **Regulatory Frameworks:** Establish clear Regulatory Frameworks for dissemination of misinformation; ensuring transparency of political advertising; etc. **Example: EU Code of Practice on Disinformation, 2022.**
- **Strengthen ECI:** To reduce the risk of AI misuse by political campaigns, ECI should **strengthen disclosure requirements** covering online communications.
- **Promote innovation in detection of deep-fake:** Example **Deepfake Detection Challenge (DFDC)** to build innovative new technologies to detect deepfakes and manipulated media.
- **Adaptive Response:** Continuously monitor and adapt to emerging threats and challenges related to AI in elections, responding swiftly to maintain the integrity of the electoral process.

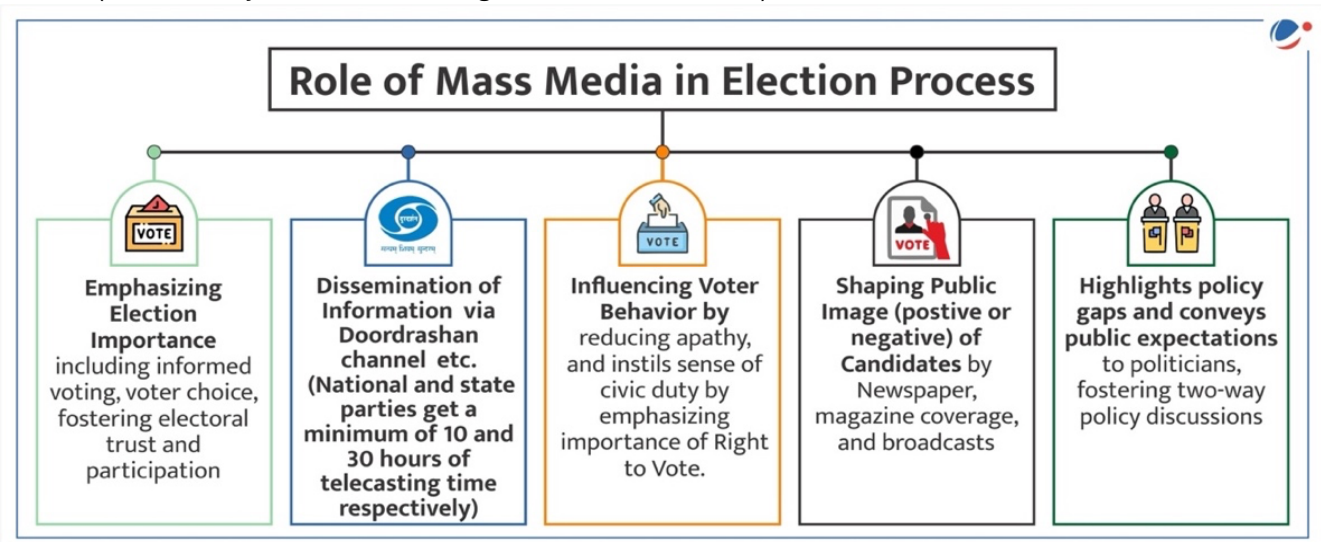
5.6. MASS MEDIA AND ELECTION

Why in the News?

Taking the note of misuse of social media by political parties during election campaign, ECI issued **guidelines for ethical use of Social Media Platforms (SMPs).**

Key highlights of guidelines

- ECI directed parties to **not:**
 - **publish content that is false, misleading, or derogatory**, especially towards **women**,
 - **not impersonate another person**, including political parties or their representatives on SMP.
- It also mandated Political parties to:
 - **remove any violating content within three hours** of notification and **warn** responsible members,
 - **escalate unresolved issues** to **Grievance Appellate Committee** as outlined in Rule 3A of IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.



Challenges posed by mass media to election process

- **Threat to Sovereignty of country:** For example, **during 2016 US presidential elections**, Russia allegedly used social media to manipulate the outcome.

- **Misinformation and manipulated content:** AI-generated deepfakes complicate issue, making it hard to distinguish real information from fake, disrupting election integrity.
- **Create online Echo Chambers:** Algorithms reinforce existing biases and limit exposure to diverse viewpoints. For instance, Facebook's failure to address platform abuse in Sri Lanka reportedly fueled widespread violence in 2018.
- **Compromising Model Code of Conduct:** Lack of effective regulation on SMPs makes it challenging to enforce the code of conduct for parties and candidates.
- **Privacy Concerns and threat to voter's objective opinion:** In 2018, several Indian political parties allegedly hired **Cambridge Analytica**, a data mining and analytics business.

Way ahead for mitigating the adverse impact of Mass Media on Indian elections

- **Follow advisories of Press Council of India:** To give objective reports about elections and candidates, observe all directions of ECI, Chief Electoral Officer etc.
- **Effective Implementation of Voluntary Code of Ethics** for General Elections 2019: To promote responsible behaviour on social media platforms.
- **Strengthen links between civil society groups and internet platforms:** To facilitate timely raising of concerns and consideration of findings by platforms.
- **Strengthen Data Protection Framework:** To ensure that voter data is protected and used responsibly to maintain the integrity of electoral process.



Existing Regulatory Frame for Social Media

- **Information Technology Act, 2000:** Governs all areas of electronic communication, including social media.
- **IT (Intermediary Guidelines and Digital Media Ethics Code) Regulations, 2021:** For ensuring accountability of social media and other intermediaries.

5.7. MUNICIPAL ELECTIONS

Why in the News?

SC invalidated and annulled the outcome of mayoral elections held for Chandigarh Municipal Corporation.



Constitutional Provisions related to Municipalities

- **Composition of Municipalities (Art 243R):** All seats in a Municipality shall be filled by persons chosen by direct election from territorial constituencies in Municipal area.
- **Reservation of seats (Art 243T):** Seats are reserved for weaker sections, SC/ST, Women, and other groups as per respective municipal Acts.
- **Duration of Municipalities (Art 243U):** 5 years from date appointed for its first meeting.
- **State Election Commission (Art 243ZA):** Superintendence, direction and control of preparation of electoral rolls for, and conduct of, all elections to Municipalities shall be vested in SEC

Need for fair and timely Municipal Elections:

- **'First-mile' Connect: India has 87,000+ councilors** (an elected representative of a ward) across **its 4,700+ cities**, representing an **average of over 4,300 citizens in each ward**.

- **Tackle grassroots level issues:** It includes environmental sustainability, primary healthcare, gender equality and jobs and livelihoods.
- **Efficient utilization of funds:** Utilization of fund allocated by **Fifteenth Commission (allocated Rs. 26,000 crores)** for municipalities towards primary healthcare.

Challenges in Municipal Elections

- **Untimely elections:** Despite the SC-specific direction in **Suresh Mahajan v. State of Madhya Pradesh (2022)** State governments do not hold timely elections for urban local governments.
 - Over **1,500 municipalities** did not have elected councils in place from 2015 to 2021 **across States**.
- **Delay in Council Formation:** In Karnataka, there was a delay of 12-24 months in the formation of elected councils after the declaration of election results in most of the 11 city corporations.
- **Delimitation and reservation:** Power of delimitation of wards rests with State government, thus any delay in delimitation process, further delays council elections.
- **Inconsistent Mayoral terms:** In **India, 17% of cities including five of the eight largest ones have mayoral terms less than five years.**
- **SECs lack power:** As they depend on state governments to complete the delimitation of ward boundaries and to notify reservations for women as well as marginalized communities.
- **Low voter turnout for municipal elections** than parliamentary and state assembly elections. **For Example,** 2020 Delhi assembly saw a 62.59% turnout, 11.85% more than local council elections.

Way forward

- **Empowering SECs:** Strengthening SECs by giving them significant role in **elections of mayors, deputy mayors and standing committees** can help ensure timely, free, and fair municipal elections.
- **Power of delimitation:** Must be vested in SECs or an independent Delimitation Commission in each State for conducting the delimitation and reservation process.
- **Single electoral roll:** Single electoral roll for all three tiers of Government as suggested by High-level Committee on Simultaneous Elections will reduce redundancy and duplication across multiple agencies.



Lakshya Prelims & Mains Integrated Mentoring Program 2025

(A 15 Months Strategic Revision, Practice, and Mentoring Program for UPSC Prelims and Mains Examination 2025)

VisionIAS introduces the Lakshya Prelims & Mains Integrated Mentoring Programme 2025, offering unified guidance for UPSC aspirants across both stages, ensuring comprehensive support and strategic preparation for success

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6. GOVERNANCE

6.1. ADMINISTRATIVE REFORMS AT A GLANCE

Administrative reforms

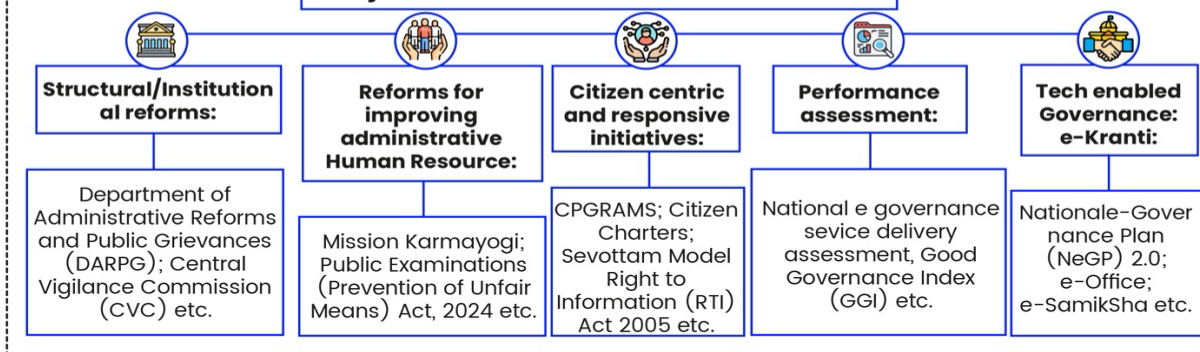
Administrative reforms strive to establish and put into practice the necessary adjustments for a government's administrative entities to effectively implement public policies.



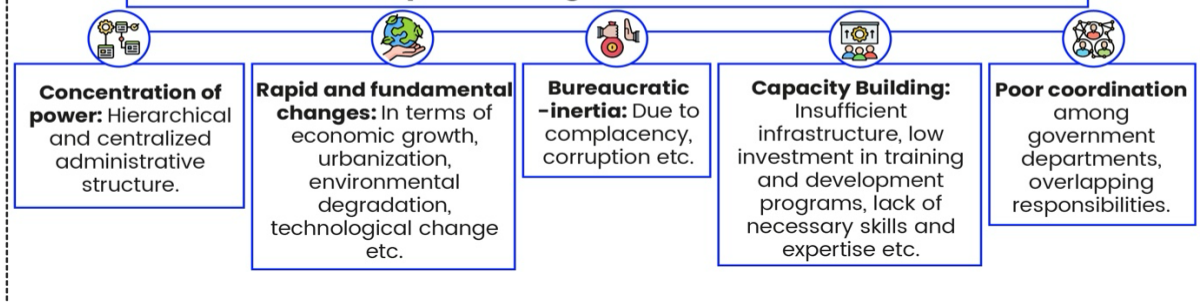
Need of Administrative Reforms in India

- **Adaptation to changing circumstances:** like rapid technological progress.
- **Emphasis on procedure than outcomes:** Due to outdated systems, bureaucratic red tape etc.
- **Poor public perception:** Of credibility and effectiveness of civil services.
- **Sub-optimal Performance management system**
- **Limited focus on Citizen-centric Governance:** Complex processes, ineffective grievance redressal systems, etc.

Major administrative reforms in India



Roadblocks in Implementing Administrative Reforms in India



Way forward

- **Executive Synergy:** Between political executive and civil services.
- **Citizen-centricity:** Citizen-centricity through active engagement of stakeholders.
 - **PC Hota Committee recommended** each Department/Ministry must identify points of citizen interface.
- **Specialized services:** Officer with domain expertise in one area of administration.
- **Performance Review Dedicated authority for personnel management:** 'Central Civil Services Authority' proposed by 2nd ARC.
- **Leveraging technologies:** Such as blockchain, artificial intelligence etc.



6.1.1. ROLE OF CIVIL SERVANTS IN GOVERNANCE

Why in the news?

On Civil Services Day, Prime Minister highlighted that civil servants play a pivotal role in furthering governance and public welfare.

Role of Civil Servants in Governance

- **Continuity of governance:** Being part of permanent executive Civil servants even when elected governments change.
- **Interface between government and people:** Act as the **main channel for communicating** people's needs to the government and **implementing government policies** on the ground.
- **Policy formulation:** They provide necessary **inputs, identify policy areas, analyse alternatives, solutions to societal issues** etc. and advice to the ministers.
- **Cementing Indian democracy:**
 - **Free and fair elections:** ECI ensures free and fair elections, with reforms introduced by former **CEC T.N. Seshan** aimed at reducing money and muscle influence.
 - **Participative democracy:** Example, in 1976, A.M. Gokhale introduced Village Development Board in Nagaland **for decentralised grassroots planning and development**.
 - **Inclusive democracy:** played critical role in giving **voice to voiceless**. For example, in 2020, Balangir district administration launched **'Sweekruti'** to integrate transgender community into mainstream activities.
- **Growth and development:**
 - **Enforcing Law and Order:** Addressing social tensions, conflicts and thus create social unity and harmony.
 - ✓ For instance, **sanjukta parashar** (IPS officer), also known as **iron lady of assam played a critical role on** in tackling northeast insurgency.
 - **Overcoming resource constraints:** For example,
 - ✓ **IAS officer Armstrong Pame**, known as **Miracle Man of Manipur**, **crowdfunded** through social media **to construct a 100 km road in 2012 without state financial aid**. Now this road is also known as **"people's road"**.
 - ✓ **Operation Sulaimani**, pioneered by Prasanth Nair (former District Collector of Kozhikode in Kerala), **uses nameless donations from public to provide food with dignity**. This facilitates in ensuring Right to Food.
- **Career Diplomats:** Represent their country in international forums and play an important role in negotiating agreements, promoting national interest, protecting friendly relations with other countries, etc.
- **Quasi- Judicial role:** Serve on tribunals, like Telecom Disputes Settlement and Appellate Tribunal, Cyber Appellate Tribunal etc.

Initiatives taken to improve the functioning of Civil Servants

- **National Programme for Civil Services Capacity Building- Mission Karmayogi:** Aims to transform the capacity building apparatus at individual, institutional and process levels.
- **Integrated Government Online Training (iGOT) - Karmayogi platform** is a comprehensive online platform that guides individual civil service officials in their capacity-building journey.
- **National Standards for Civil Service Training Institutions (NSCSTI):** It was developed by Capacity Building Commission for elevating quality and capacity of training delivery of Central Training Institutes.
- **Aarambh (2019):** It is first ever **common foundation course for civil servants training**.
- **National Training Policy:** To develop professional, impartial and efficient civil servants that are responsible to needs of citizens.
- **Prime Minister's Awards for Excellence in Public Administration.**

Challenges associated with the functioning of civil services

- **Autonomy:** Frequent transfer, political pressure and interference, and need for approval from higher authorities, etc. compromise civil servants autonomy.
- **Infrastructure:** Many Indian cities, particularly rural areas, **lack proper infrastructure and resources**, impacting effective implementation of government programs and service delivery.
- **Red-tapism:** Complex bureaucratic procedures, hierarchical system in civil services, slow decision-making, hinder progress, and complicate societal change implementation.
- **Security:** Civil servants and their family members are often exposed to **risk of violence, and threats from criminals or extremists**.
 - **For example,** Death threats to IAS officer, **Tukaram Mundhe** for raiding illegal bars.

Conclusion

Civil servants' transparency, efficiency, and integrity contribute to inclusive development and good governance government efforts enhance efficiency, but restructuring civil services is necessary for 21st-century citizen needs.

6.1.2. REVAMPED SCHEME FOR ADMINISTRATIVE REFORMS

Why in News?

Government has approved funds for revamped Scheme for Administrative Reforms of **Department of Administrative Reforms and Public Grievances (DARPG)**.

About Scheme

- To be implemented in next two years (2024-25 and 2025-26) of 15th Finance Commission Cycle.
- Scheme will take **up ambitious next generation administrative reforms** in matching with the new aspirations of Viksit Bharat.

Various mechanism present for Grievance Redressal

- **CPGRAMS, Lokpal and State Lokayuktas, CVC** etc.
- **RBI** have set up Ombudsman.
- **Twitter Seva, UMANG app, PRAGATI, etc.**
- **Digital** platforms in States like Gujarat (**SWAGAT**), Andhra Pradesh (**SPANDANA**) Rajasthan (**Rajasthan Sampar**), etc.

Significance of the revamped scheme

- **Transparency and Accountability:** E.g., **Grievance Redressal Index** for ranking of Central Ministries/Departments.
- **Training and Capacity Building:** Conducted via **iGot** Platform and Sevottam Scheme.
- **Seamless Service Delivery:** Making services more accessible, user-friendly, by empowering **Common Services Centres (CSCs)** to reach to the remotest citizen.
- **Efficient decision-making:** Government Process Reengineering, streamlining bureaucratic procedures, reducing red tape etc.
- **Integration:** of State Portals and other Government of India Portals with CPGRAMS with **One Nation – One Portal**.
- **Innovation in Administrative Machinery:** E.g., Launch of Intelligent Grievance Monitoring System (**IGMS 2.0** for categorical, spatial, and root cause analysis).

Issues with existing public grievance system

- **Lack of Uniformity:** Wide variations exist across ministries and other organisations with respect to framework, process, and capacity to handle grievances.

- **Federal Dynamic:** Petitioner faced numerous grievances related to State governments on **CPGRAMS**, which were not addressed by State government, leading to no redressal. (**Parliamentary Standing Committee**).
- **Complexity and Bureaucratic Hurdles:** Discouraging people from lodging complaints.
- **Resource Constraints:** Public Grievance Cells often suffer from **shortage of staff** and resources.

Way ahead

- **Attitudinal change in civil servants:** Through rewarding good work and **awarding effective suggestions** and punishing the deliberate negligence.
- **Enhancing Inclusive Grievance Redressal:** To ensure inclusion of those without access to CPGRAMS, mechanisms like **lok adalats, social audit, and mobile apps** should be simultaneously utilized.
- **Recommendation of 2nd ARC:**
 - **Public grievance officers** on the lines of the Public Information Officers under RTI Act.
 - **All grievance petitions** received should be satisfactorily **disposed of by these officers within 30 days**. **Non-adherence** to the time limit should invite **financial penalties**.

6.2. LOKPAL AND LOKAYUKTA

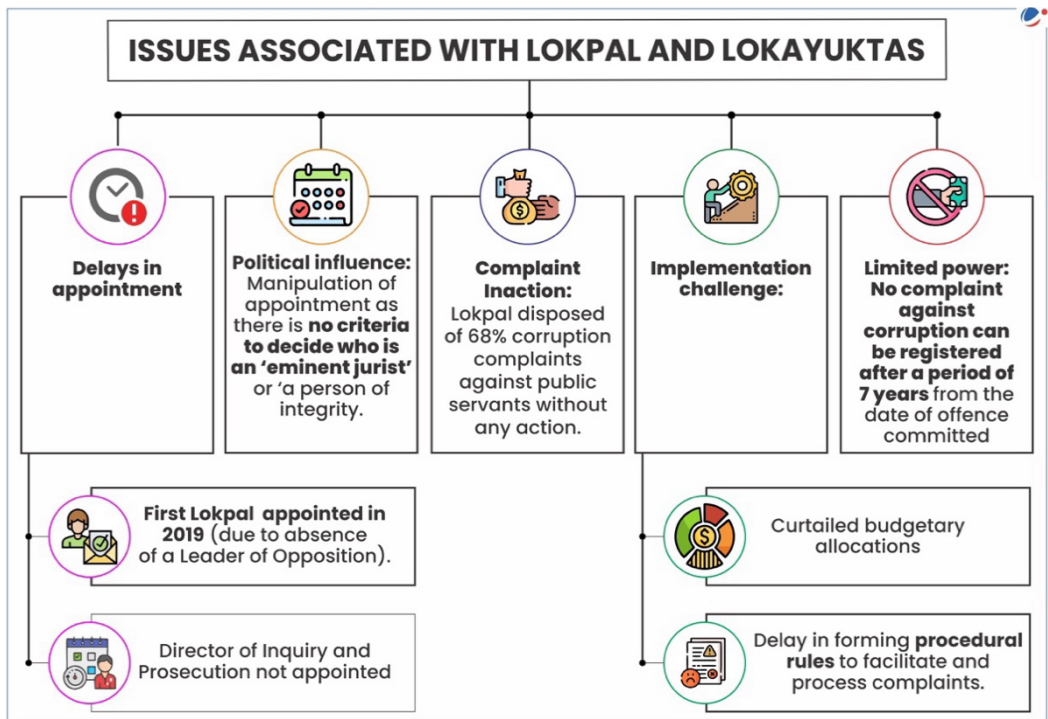
Why in news?

Recently, Uttar Pradesh assembly passed the Uttar Pradesh Lokayukta and Uplokayuktas (Amendment) Bill, 2024.

Lokpal and Lokayukta Act 2013

- It provides for the establishment of a **statutory body of Lokpal for Union and Lokayukta for States**.
- It aims to **inquire into allegations of corruption against certain public functionaries**.
- **Lokpal consists of a chairperson and maximum eight members**, with 50% being judicial members and 50% from SC/ST/OBCs, minorities, and women.
 - The chairperson and members serve for **five years or until they turn 70**, whichever comes first.

- **Lokayukta shall have jurisdiction over CM, Ministers, MLAs, all state government employees and certain private entities (including religious institutions).**
- **Lokpal Jurisdiction extends to Prime Minister, Ministers, MP, Group A, B, C and D officers and officials of central government.**
 - Any **society or trust or body** that receives **foreign contribution above ₹10 lakh**.



Exceptions in Jurisdiction of Lokpal

- Corruption charge **against Prime Minister** if the allegations are **related to international relations, external and internal security, public order, atomic energy, and space.**
- **Judiciary and armed forces** do not come under the ambit of Lokpal.
- **Employees of State Government are not covered** unless they have served in connection with the affairs of the Union.

Need for Lokpal and Lokayuktas

- Lack of independent anti-corruption agencies
- Lack of transparency and internal accountability
- Inadequate mechanism to check corruption
- Absence of effective power among bodies like CVC etc

Way forward

- **Financial, Administrative, and Legal Independence:** Lokpal and Lokayukta must operate independently from those they investigate and prosecute, to maintain integrity.
- **Decentralized Institutions:** with robust accountability mechanisms is essential to prevent excessive power concentration.
- **State-Level Lokayuktas:** Lokayuktas should be established in states similar to Lokpal, overseeing all state government employees, local bodies, and state corporations.

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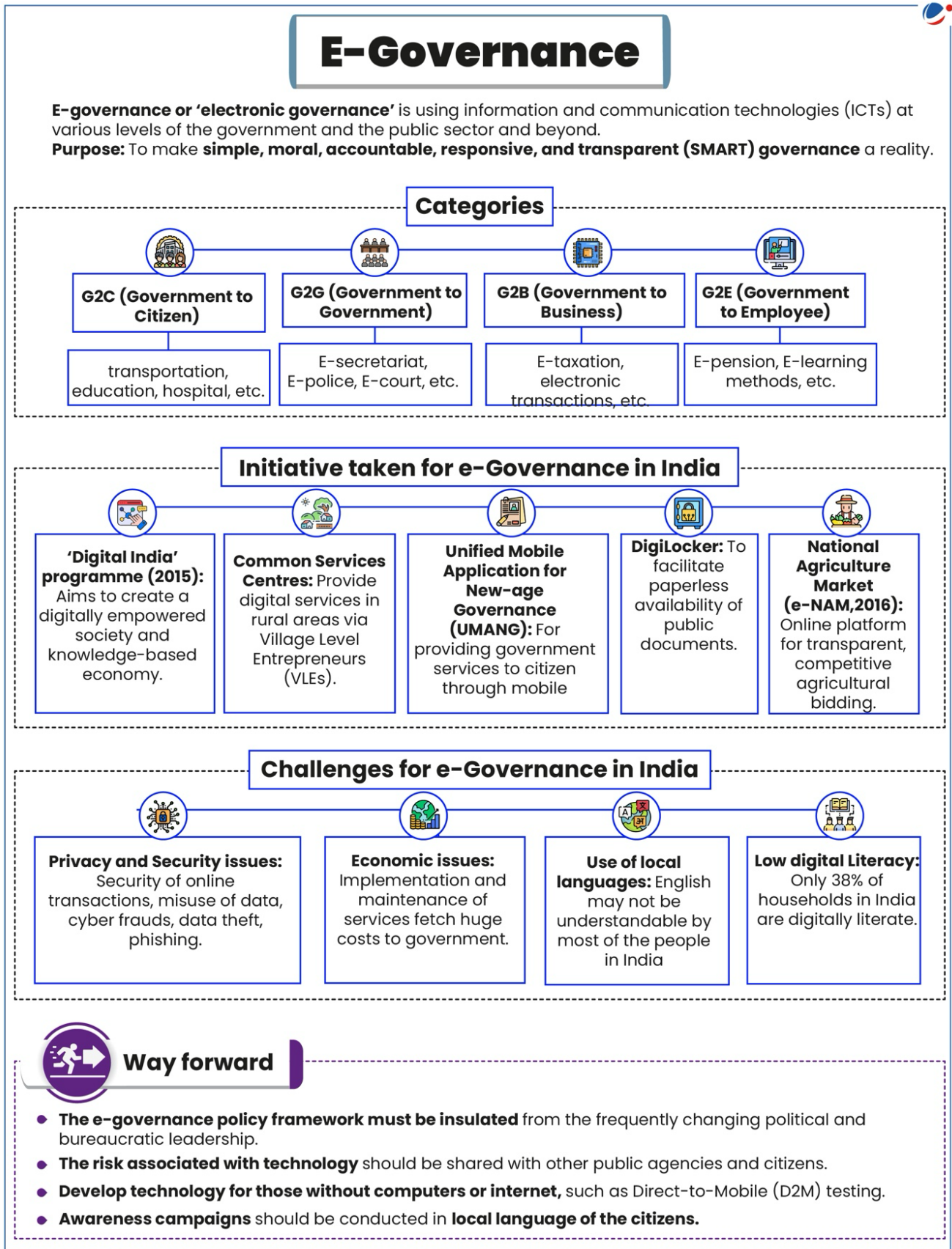
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6.3. E-GOVERNANCE AT A GLANCE



6.3.1. ROLE OF TECHNOLOGY IN PUBLIC SERVICES DELIVERY

Why in the News?

Comptroller & Auditor General (CAG) of India has emphasised on the need for increased **use of IT systems and technology** in service delivery to the citizens.

Technology and Linkage with public service delivery

- **Digital government services** (e-government) are defined as service delivery within government — as well as between government and public — using information and communication technologies.
 - **Traditionally, government services have been delivered in person**, by individual departments in different locations, and often using paper forms.
- With digital services, government can deliver information and services to citizens **anytime, anywhere, and on any platform or device**.

Significance of Technology in Services delivery

- **Saves time and money for Citizens:** E.g., **e-Hastakshar service** facilitates instant e-signing of documents online by citizens in a legally acceptable form without having to visit government offices.
- **Increases efficiency of Government departments:** E.g., Vehicles Data from different State Registers are collected and processed in **VAHAN platform** of **Ministry of Road Transport and Highways**.
- **Eliminates Ghost beneficiaries and leakages:** by **linking Aadhar cards to respective job cards of MGNREGA**, lakhs of Ghost beneficiaries were identified and removed.
- **Increases accountability and reduces corruption:** This enables citizen to understand rules and regulations better and even raise complaints on erring officers.
- **Combination of data harnessed from various sources:** Linking of PAN card and Aadhar card helps the exchequer to collect data on persons earning above a threshold income for reducing black money and increasing tax collection.

Technological challenges in service delivery

- **Digital divide** among people. **38%** of households in India are digitally literate.
- **Lack of workforce** E.g. Orissa district judiciary due to shortage of staff adversely impacted employees' working conditions.
- **Cyber security threat** is a major concern as these services are also handle important data of government and public.
- **Lack of sufficient digital infrastructure.** Only 48.6% of District Court complexes have a functional e-filing facility.
- **Lack of interoperability** in most services makes them work in isolation rather than as a collective network.

Way forward

- **Enhancing digital literacy** among the population and highlighting its advantage in the society.
- **Legal framework** to enhance the data protection within the country.
- **Enhancing Cyber security** infrastructure in country through research **on quantum, AI, and advanced wireless technologies**.
- **Enhancing the interoperability** of the services to widen the scope of the services.

6.4. DIGITAL PERSONAL DATA PROTECTION ACT 2023

Why in the news?

Digital Personal Data Protection Act, 2023 was passed by Parliament and received the President's assent.

Background

- In 2017, Supreme Court recognised privacy as a fundamental right in **K.S. Puttaswamy vs. Union of India case**.



- Following this, **Justice Srikrishna Committee** proposed the initial draft of Personal Data Protection (PDP) Bill in 2018.

About Digital Personal Data Protection (DPDP) Act 2023

Act aims to **regulate the processing of digital personal data** while **ensuring individuals' right to protect their data** and **need to process it for lawful purposes**.

Key Provisions of Act

- **Applicability:** Processing of digital personal data within India where such data is collected online, or offline and is digitized.
 - **Processing of personal data outside India** if it is **for offering goods or services in India**.
- **Consent:** Personal data may be processed only for a lawful purpose after obtaining the consent of **Data Principal** (individual to whom personal data relates).
 - **Consent** will not be required for **'legitimate uses'** including the provision of benefits or services by government, medical emergency etc.
- **Established Data Protection Board of India:** For Monitoring compliance and imposing penalties, hearing grievances made by affected persons etc.
- **Rights and Duties of Data Principal** like, right to obtain information about processing, right to Seek correction and erasure of personal data.
- **Designation of Significant Data Fiduciaries:** Data fiduciaries will be obligated to maintain accuracy of data, keep data secure, and delete data once its purpose has been met.

Significance of DPDP act

- **Enhanced Data Protection:** For example, for healthcare industry, this translates into more robust measures to safeguard sensitive patient's information.
- **Ease of Doing Business:** It gives businesses clear rules on how to use personal data, helping them avoid confusion and encouraging them to follow the law.
- **Processing for Research Purposes:** Act recognizes the importance and public interest of scientific research and **provides exemption for processing of personal data** necessary for research purposes.
- **Global Alignment:** Act matches worldwide data protection rules, making it easier for India to do business globally.

Limitations of Act

- **Violate Fundamental Rights:** For e.g., using exemptions, a government agency **may collect** data about citizens **to** create 360-degree profile for **surveillance** may violate fundamental right to privacy.
- **Complicated approach to grievance redressal:** An aggrieved individual is required to first approach the data fiduciary's redressal mechanism.
 - Unresolved grievances can be escalated to **Data Protection Board**, with further appeals to Telecom Disputes Settlement and Appellate Tribunal.
- **Non-Clear definition:** Act mandates data fiduciaries to prevent processing that could negatively impact a child's well-being but lacks a clear definition or guidance for determining such effects.
- **Does not grant right to data portability and right to be forgotten** to data principal.
- **Lack of robust data protection laws** in another country may increase the vulnerability of stored data.

Way forward

- **Cross-Border Data Governance:** Mechanisms need to be developed for countries **not mentioned in list** provided by the notification.
- **Data Rights: Right to data portability** and **right to be forgotten** should be provided especially in cases where data collection and storage pose harm to the reputation, life, identity etc. of a person.
- **Prevent Misuse:** Terms like sovereignty and integrity of India should be clearly defined along with a defined procedure to provide exemption.
- **Quantifying time duration:** to delete the data once the purpose has been fulfilled or Data Principal withdraws his/her consent to the processing of personal data.

Comparison between European General Data Protection Regulation (GDPR) and India DPDP Act, 2023

GDPR	DPDP Act, 2023
Applies to all personal data (digitised or not).	Applies only to personal data that is collected in digital form or collected in non-digital form and subsequently digitised.
Minors under age 16 need parental consent.	Minors under age 18 need parental consent.
Breaches should be notified to Supervisory Authority within 72 hours.	Does not specify a timeframe or Personal Data breach notification.
It lays down specific mechanisms for transferring data to third country like standard contractual clauses and binding corporate rules.	Not identified any transfer mechanisms for transferring Personal Data.
Data Controller and Data Processor are required to maintain Records of Processing Activities (ROPA).	Does not include any obligation for Data Fiduciaries to maintain ROPA.

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6.5. CENSORSHIP IN INDIA AT A GLANCE

Censorship

Censorship refers to **official prohibition or restriction** of any type of expression such as films, books, television shows etc believed to threaten the political, social, or moral order.

Censorship during Colonial Rule

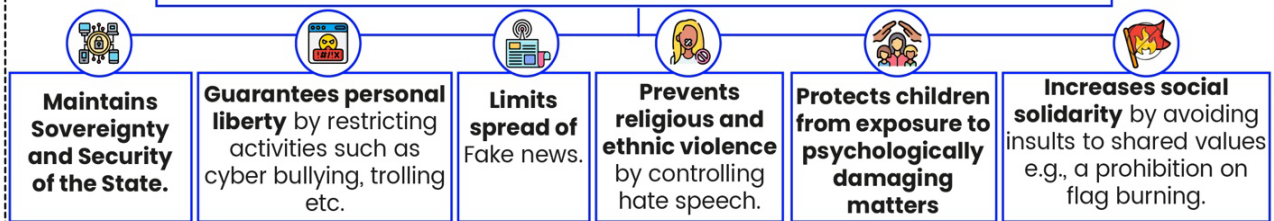
Censorship used as a method to break down any feeling of revolt and disrupt the National movement through acts like **Vernacular Press Act, 1878, Newspapers (Incitement to Offences) Act of 1908, the Press Act of 1910 etc.**



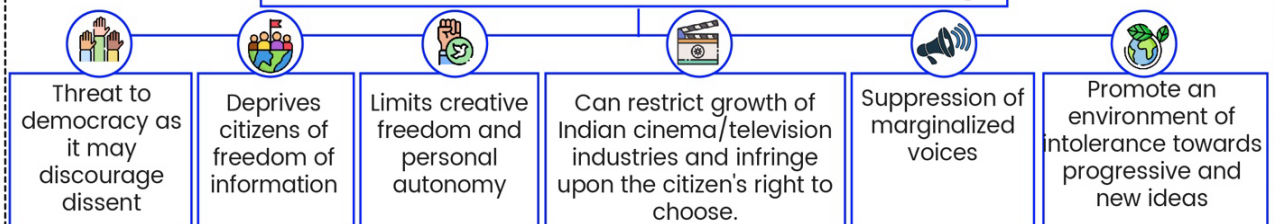
Current framework governing media content

- **Information Technology (IT) Act, 2000 and IT Rules:** Regulate content on digital media such as social media Intermediaries, Over the Top (OTT) platforms etc.
- **Central Board of Film Certification (CBFC):** Regulates the public exhibition of films.
- **Press Council of India (PCI):** Maintains and improves the standards of newspapers and news agencies.
- **Other provisions regulating media content:** Protection of Children from Sexual Offences Act 2012 etc.

Need of censorship for society and the country as a whole



Prevalent issues related to censorship



Way forward

- **Encouraging Self-regulation** by including civil society's representatives.
- **Granting citizens the right to choose & consume content** through steps such as usage of content warnings.
- **Promoting professional education** in the media and codifying all media laws.
- **Limiting the extent of censoring** power of the State.
- **Placing restrictions upon free speech** only to prevent infliction of actual harm based on objective standards.

6.5.1. CINEMATOGRAPH (AMENDMENT) ACT, 2023

Why in the news?

Parliament received the assent of the President on the Cinematography (Amendment) Act, 2023

More about news

- New Act **amended the Cinematograph Act 1952**, enacted to make provisions for certifying cinematograph films for exhibition and regulating exhibitions using cinematographs.
 - Cinematograph Act 1952 provides for establishing **Central Board of Film Certification (CBFC)** for certifying films for exhibition.
 - ✓ Such certifications may be subject to modifications/deletions.
 - ✓ Board may also refuse the exhibition of films.

Key provisions of Cinematography (Amendment) Act, 2023

Specifications	Details
Age-Based Certification	<ul style="list-style-type: none"> • Act introduces three age-based certifications under 'UA' category —'UA 7+', 'UA 13+' and 'UA 16+'. • These age-based markers meant for parents or guardians to consider whether their children should view such a film. • These are only recommendatory.
Separate certificate for television/other media	<ul style="list-style-type: none"> • Films with an 'A' or 'S' certificate will require a separate certificate for exhibition on television, or any other media prescribed by the central government.
Certificates to be perpetually valid	<ul style="list-style-type: none"> • Certificates will be perpetually valid as opposed to present validity of 10 years.
Revisional powers of central government	<ul style="list-style-type: none"> • Act omits section 6(1) of the Act as directed by Supreme Court in Union of India vs KM Shankarappa Case, 2000 which states that Centre cannot exercise revisional powers on films already certified by the CBFC.
Makes film piracy a punishable offence	<ul style="list-style-type: none"> • Act prohibits unauthorised recording and unauthorised exhibition of films and makes it a punishable offence under provisions of Copyright Act, 1957.
Penalty	<ul style="list-style-type: none"> • Act proposes penal action in case of violation.

Conclusion

The Act tends to address the existing problems faced by the film industry and regulates the content by new certification categories. Meanwhile, the current viewership is starting to tilt towards the **OTT platforms, and early regulation of them is necessary for the betterment of society and the industry.**

6.5.2. THE CINEMATOGRAPH (CERTIFICATION) RULES, 2024

Why in the News?

Under **Cinematograph (Amendment) Act, 2023**, **Ministry of Information and Broadcasting**, has notified the **Cinematograph (Certification) Rules, 2024**, replacing the **Cinematograph (Certification) Rules, 1983**.

Key Aspects in Cinematograph (Certification) Rules, 2024

- **Terms of office:** A member of Board shall hold office during pleasure of the Central Government.
- **Representation of women:** It stipulates that 1/3rd of members in Board shall be women and preferably half shall be women.
- **Improved efficiency:** By **reducing timelines** for the **processing of film certification** and **adopting complete digital processes** for eliminating all transactional time.

- **Provision for priority screening:** in case of any urgency felt by filmmaker(s) due to their prior commitments to release the film, encouraged 'Ease of Doing Business'.
- **Change of Category of Film for Television:** Recertification of the edited film for Television broadcast, as **only Unrestricted Public Exhibition category films** can be shown on television.
- **Perpetual validity of certificates:** Removal of the restriction on the validity of the **certificate for 10 years.**

Issues with Film Certification in India

- **OTT platforms:** Film certification does not regulate content on OTT platforms.
- **Censorship and Content Restrictions:** Excessive censorship could potentially **hinder artistic freedom and creative expression.**
- **Delays:** There are concerns about CBFC's capacity to handle the volume of films submitted for certification in a timely and efficient manner.
- **Fails to tackle online piracy:** leaving loopholes such as **mirroring servers** (duplication of data).
 - It does not address instances of **film piracy that originate in foreign countries.**
- **Legal Challenges:** Recently a petition was filed demanding the revocation of the certificate for the movie 'Adipurush' for allegedly hurting religious sentiments.

Categories of Film Certification	
Category	Certified Audience
U	Universal and without restrictions
UA category into three age-based categories: <ul style="list-style-type: none"> • Seven years (UA 7+) • Thirteen years (Age 13+) • Sixteen years (UA 16+), instead of twelve years. 	Without restrictions, but subject to guidance of parents or guardians.
A	Only for adults
S	Only to members of any profession or class of persons.

Judicial Pronouncement related to Cinematograph

• **S. Rangarajan Etc. vs P. Jagjivan Ram (1989):** SC observed that if the film is unobjectionable and cannot constitutionally be restricted under Article 19(2), freedom of expression cannot be suppressed on account of threat of demonstration and processions or threats of violence.

Conclusion

While streamlined processes and diverse representation in the revamped Cinematograph (Certification) Rules, 2024 are positive steps, concerns linger over censorship, content control etc. Striking the right balance between creative freedom and societal responsibility remains the true test ahead.

6.5.3. DIGITAL SERVICES ACT

Why in the news?

Digital Services Act (DSA) started applying to all online intermediaries serving users in European Union (EU).

About Digital Services Act (DSA)

- DSA is an EU regulation which regulates **online intermediaries and platforms** like marketplaces, social networks, content-sharing platforms, app stores etc.
- In 2020, DSA together with **Digital Markets Act (DMA)** proposed a **comprehensive framework to ensure a safer, fairer digital space.**
 - DMA affects gatekeeper platforms like Google, Amazon and Meta, and **covers the need for user consent before processing personal data** for targeted advertising
- DSA and DMA form a single set of rules that apply across the whole EU with **2 main goals to:**

- **Create a safer digital space** in which fundamental rights of all users of digital services are protected.
- **Establish a level playing field to foster innovation**, growth, and competitiveness, both in European Single Market and globally.

Difference between the EU’s DSA and India’s IT Rules, 2021

Key Provisions	IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021	EU’s Digital Services Act (DSA)
Scope	Apply to social media intermediaries, digital news publishers, and OTT platforms operating in India, irrespective of their country.	DSA applies to a wider range of online platforms , including social media, online marketplaces, and cloud computing services operating in EU, irrespective of their country.
Content Moderation	Rules require social media intermediaries to appoint a grievance officer, nodal officer, and a chief compliance officer , and establish mechanism for receiving and resolving complaints from users.	DSA proposes a range of compliance requirements for online platforms, including content moderation measures, transparency obligations, and data protection requirements.

Note: Both are similar in terms of **Due Diligence Requirements** on social media platforms, Content Regulation and a Co-Regulatory approach for monitoring compliance and for grievance redressal.

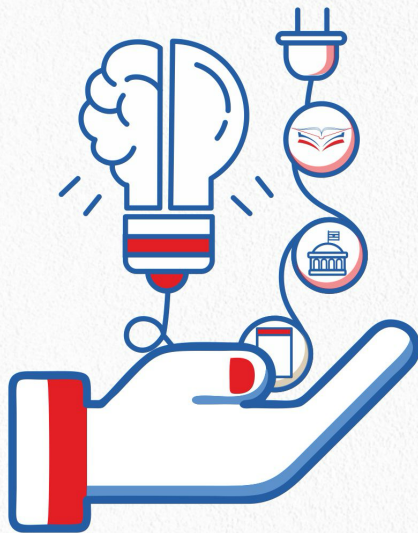
Due diligence is a process or effort to collect and analyze information before making a decision.

Conclusion

Overall, the **DSA** is a more comprehensive regulatory framework, taking a more nuanced approach to governing digital content and online platforms. However, the effectiveness of each will depend on how they are implemented and enforced.

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6.6. ENVIRONMENTAL GOVERNANCE IN INDIA

Why in the News?

SC, while hearing a petition on the functioning and constitution of Central Empowered Committee (CEC), issued guidelines for the effective functioning of environmental regulatory bodies.

About the Judgement

- SC approved notifications issued by government on constituting CEC as a **permanent body**.
 - Government issued a notification under Environment (Protection) Act (EPA), 1986, constituting CEC as a permanent body.
- Almost for a period of two decades, **CEC** was functioning as an **ad hoc body**.

Important Environmental regulatory bodies and their role:

- **Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCB):** Initially constituted under Water (Prevention and Control of Pollution) Act, 1974, later also functions under Air (Prevention and Control of Pollution) Act, 1981.
 - Role is to promote cleanliness of water streams and wells and improve air quality and combat air pollution.
- **National Board for Wildlife (NBWL):** Statutory Board under **Wildlife (Protection) Act, 1972** to promote the conservation and development of wildlife and forests.
- **Compensatory Afforestation Fund Management and Planning Authority (CAMPA):** To promote afforestation and regeneration activities as a way of compensating for forest land diverted to non-forest uses.
- **National Green Tribunal (NGT):** Established in 2010 under NGT Act 2010 for effective and expeditious disposal of cases relating to environmental protection.
- **National Environment Appellate Authority:** Set up to address cases in which environment clearances are required in certain restricted areas.
- **Central Ground Water Authority (CGWA):** Constituted under EPA, 1986 for purpose of regulation and control of ground water development and management.
- **State Environment Impact Assessment Authorities:** To grant prior environmental clearance to certain projects, as specified in Environment Impact Assessment Notification.

Way Forward

- **SC Guidelines:** In furtherance of principles of environmental rule of law, regulatory bodies must function with the following institutional features:



- **Structure:** Composition, qualifications, tenure, method of appointment and removal of members of these authorities must be **clearly laid down**.
- **Funding:** Must **receive adequate funding** and their finances must be **certain and clear**
- **Clear Mandate:** Mandate and role of each authority and body must be **clearly demarcated**.
- **Accessibility:** Make available the rules, regulations, guidelines accessible by providing them on **website**, including in **regional languages**.
- **Accountability:** There must be **regular and systematic audit** of the functioning of these authorities.

6.6.1. CONSTITUTIONALIZATION OF ENVIRONMENTAL ISSUES

Why in the news?

SC, in a recent judgment, stated that the right to be free from the adverse effects of climate change should be recognised by **Articles 14 and 21** of the Constitution.

More about the news

- Judgment was made under the writ Petition '**M.K. Ranjitsinh and Others v. Union of India and Others**' regarding the protection of **Great Indian Bustard and its habitat**.
- It is an example where **SC has used its power to widen the scope of fundamental rights**, particularly **Articles 21** (right to Life), **Article 14** (right to equality) and **Article 19** (right to freedom of speech, etc.), under Constitution to tackle environmental issues.



Powers of Supreme court to protect environmental rights under Constitution

- **Article 32:** SC can issue directions, orders or writs to protect fundamental rights (High Courts can do the same under **Article 226**).
- **Article 142:** SC can pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.

Challenges in implementation

- **Judicial delays:** Overburdened judicial system can result in lengthy delays in resolving environmental disputes and cases, affecting timely compliance and enforcement.
- **Difficulty in identifying polluters:** Pollution can be caused by a chain of activities, making it challenging to identify the source.
- **Development and environment conflict:** Often environmental law and ruling come in conflict with development for ex-construction of infrastructure projects.
- **Difficulty identifying and addressing risks and environmental impacts:** of development projects and industries due to lack of clear provisions.
- **Weak monitoring:** Regulatory bodies like State Pollution Control Boards suffer from insufficient funding, lack of modern equipment and infrastructure etc. to monitor compliance.



Important Judicial Pronouncements in context of constitutionalization of environmental issues

- **Maneka Gandhi vs. Union of India (1978):** Right to environment, free of danger of disease and infection is inherent in **Article 21**.
- **Rural Litigation and Entitlement Kendra vs. State (1988):** Recognised the **right to live in a healthy environment** as part of Article 21 of the Constitution.
- **M.C. Mehta vs. Union of India (1987):** Treated the right to live in pollution free environment as a part of **Article 21**.
- **Vellore Citizens Welfare Forum vs. Union of India (1996):** Observed that “the **Precautionary Principle**” and “the **Polluter Pays Principle**” are essential features of “**Sustainable Development**.”



Way forward

- **Effective implementation:** Government can set up more separate machinery, like NGT to reduce delays that are hindering implementation.
- **Global action:** As environment concern often not confined to boundaries, commitment by various countries like in Paris agreement should be fulfilled.
- **Legislation regarding climate change:** As said by SC in **M.K. Ranjitsinh and Others v. Union of India** case there is need for umbrella legislation which relates to climate change and attendant concerns.
- **Strengthen institutional capacity:** by allocating adequate financial resources and investing in capacity building of environmental agencies.
- **Rights awareness: European Court of Human Rights ruling supported** a citizen lawsuit against government for climate change inaction. Such cases can generate awareness globally.

6.7. TEMPLE REGULATION IN INDIA

Why in the news?

Karnataka Legislative Assembly passed the Karnataka Hindu Religious Institutions and Charitable Endowments (Amendment) Bill, 2024 to regulate temples in the state.

Legal and Institutional Framework to Regulate Temples in India

- **Article 25 (1) gives freedom of religion and 25 (2) talks about areas where State may intervene** and make laws or regulate religious institutions.
- **Article 26 provides for freedom to manage the religious affairs** of citizens and is subject to public order, morality and health.
- **Entry 28 of List III of Schedule VII empowers both Union and State Legislatures to make law on “Charities and charitable institutions, charitable and religious endowments and religious institutions”.**
- **Hindu Religious and Charitable Endowments (HR&CE):** Several states have enacted legislative and regulatory frameworks to regulate these institutions through the powers accorded by Constitution.
- **Hindu Religious Endowments Commission (1960):** declared that government control over temples was essential to prevent maladministration.

State control of Temple: Argument for and against

Arguments in favour	Arguments in against
<ul style="list-style-type: none"> • Social Reforms: State regulation has challenged hereditary priesthood, ensuring more inclusive and non-discriminatory practices in public temples. • Representation of Marginalized Sections: Example: Tamil Nadu HR&CE Act mandates SC/ST representation in temple Board of Trustees. • Efficient Temple Management: Charitable Endowment Act ensures proper administration and preservation of temple assets, ensuring endowments are used for their intended purposes. • Community Welfare: State oversight can ensure that temple funds are used for community welfare activities, benefiting local populace. 	<ul style="list-style-type: none"> • Violation of principle of Secularism and also basic rights guaranteed under Constitution. • Erosion of Operational Autonomy: For example, In Chidambaram Case (2014), SC permitted Dikshitars (priest community) to manage temple, emphasizing the need to preserve traditional autonomy. • Erosion of Cultural Capital: Intervention through conservation efforts have led to damage and demolition of historically significant temple structures, as highlighted by UNESCO fact-finding mission in 2017 submitted to Madras HC. • Loss of Tourist Potential: Diversion of temple funds into other activities by state may leave little for investment in temple infrastructure. • Tribals and Indigenous Communities: State control might not be sensitive to unique customs and traditions of tribal communities associated with their places of worship.



Judicial pronouncements related to temple

- **Kerala's Padmanabhaswamy Temple Case (2020):** SC granted the erstwhile Travancore royal family the shebaitship rights (right to manage a temple) for the properties belonging to Sri Padmanabhaswamy temple in Kerala.
- **Seshammal & others versus State of Tamil Nadu (1972):** SC held that the appointment of an Archaka to a temple would be a secular function, and only the performance of religious service by those priests would be an integral part of the religion.

Way Forward

- **Clear separation of religious and administrative domain.**
- **Inter Temples Network Structure:** Temples should be categorized by size and organized using a hub-and-spoke model, where larger temples support smaller ones.
- **Good governance principles:** State-level **Temple Administration Board** (Having state officials) assisted by **Temple Management Committee** and **Temple Level Trusts** (having priests, locals etc.) can be constituted to administer different functions.
 - **Hindu Religious and Charitable Endowment Act, 1991** also provides for a Temples Administration Board.
- **Special Purpose Vehicle: Temple Development and Promotion Corporation** can be formed to undertake all development work of all temples relating to tourism, networking of temples, promoting research and publication, IT, etc.
- **Following Best Practices:** Concept of **Devaswom** (property of God) in Kerala is an interesting model to keep check on corruption.



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7. LOCAL GOVERNANCE

7.1. URBAN GOVERNANCE IN INDIA

Why in the News?

Annual Survey of India’s City-Systems by Janaagraha (Bengaluru based not-for-profit institution) reveals India’s urban governance is unprepared for the impacts of rapid city expansion.

Key challenges plaguing urban governance in India

- **Growing Urban Population:** India is 31 % urban according to Census 2011. Indian cities are expected to host over 50% of India’s population by 2050.
- **Absence of a modern spatial planning:** At least 39 % of capital cities in India do not have active spatial plans.
- **Lack of implementation of 74th CAA:** For example, many of key provisions of 74th CAA are not binding on states as the word ‘may’ has been used instead of ‘shall’ leaving space for discretion of state governments.
- **Lack of accountability:** For example, the SIT report on the Rajkot fire incident revealed inaction by town planning, fire departments, and other authorities who ignored the issue.
- **Low municipal Budget:** The own revenue of Indian municipal corporations was less than 1% of GDP, smaller than Brazil’s 7% and South Africa’s 6% (RBI analysis of the finances of urban local bodies).



Way forward

- **Securing Urban Future:** Focus on striking a balance between **4 Es - Economic growth, Environmental sustainability, Equitable access to opportunities and services, and democratic Engagement** to secure India’s urban future.
- **Decentralized Planning:** Implement models like Kerala’s people’s plan for socio-economic planning to enhance structured participation in the planning process.
- **Digital Financial Management:** Develop a comprehensive digital public financial management system to track fund utilization of city governments.
- **Alternative Sources of Financing:** Municipal Bonds, Pooled Financing (For e.g., Tamil Nadu issued bonds on behalf of 14 municipalities through a Water and Sanitation Pooled Fund)

- **Accounting and Audit:** The accounting system for the ULBs as provided in the National Municipal Accounts Manual (NMAM) should be adopted by the State Government.
- **High-Powered Council:** Form a high-powered council between union and state governments, like the GST council, to build consensus on the overhaul of the 74th CAA.
- **Indore Model:** Adopt practices from Indore Municipal Corporation, which includes constructing and maintaining educational centers, hospitals, dispensaries, and housing.
 - Create a national-level platform for mayors and city councils to strengthen peer learning.

7.1.1. CAPACITY BUILDING OF URBAN LOCAL BODIES (ULBS)

Why in the news?

Capacity Building Commission (CBC) in collaboration with MoHUA organized a National Workshop on Capacity Building of ULBs to **foster a unified approach to capacity building ULBs** across India.

Need for Capacity Building for ULBs

- To deal with **regional aspirations** i.e. economic and social development through bottom-up planning.
- India's urban centres are **considered 'engines of growth,'** as they account for nearly **two-thirds** of country's economic growth.
- For successful and **effective implementation of schemes** like Smart City Mission, AMRUT Mission etc.
- **Streamlining planning process** and delineation of institutional roles, relationships for ULBs to meaningfully shape local and regional plans.

Initiatives for improving financial health of municipalities

- **15th Finance Commission (FC-XV):** Recommended ₹4.36 lakh crore in grants to local governments for 2021-26, the largest share for local bodies.
- **Municipal Bond Financing:** Guidelines issued by the Department of Economic Affairs for infrastructure projects.
- **Credit Rating of Municipal Corporations:** Included in the reform agenda of Smart Cities and AMRUT programmes.

Challenges associated with Capacity Building of Urban Local Bodies

- **Lack of personnel with appropriate skill sets:** especially in areas like **socio-economic planning, sustainable urban planning,** financial management, and e-governance.
- **Training Curricula:** States' training institutes focus more on general and rural administration rather than on urban governance.
- **Lack an Organizational Development Strategy:** Absence of formal structures, comprehensive cadre and cadre rules, job descriptions, pay scales, introduction of new technologies, etc.
- **Ineffective communication channels** with private sector and civil society.
- **Partial Devolution:** For instance, poor finances of **Bihar's ULBs** are due to delays in release of grants, inadequate devolution of funds, and delays in revision of tax rates and assessments of landholdings.

Measures taken for capacity building of ULBs

- **Capacity Building Scheme for Urban Local Bodies:** For better governance and financial management.
- **World Bank-assisted Capacity Building for Urban Development Project:** To build the capacity of select ULBs, which are centres of economic growth.
- **National Urban Digital Mission (2021):** It focuses on citizen-centric **digital revolution in ULBs** in India.
- **Jawaharlal Nehru National Urban Renewal Mission:** Aiming urban infrastructure development and governance and basic services to urban poor.
- **Municipal Bonds:** These are financial instruments that municipal corporations and other associated bodies in India issue to raise funds.

Way forward

- **Professionalism:** Developing **Municipal cadre** and provide **specific training** to create a strong and efficient workforce in municipal departments **e.g. engineering disciplines.**
- **Creation of a separate division or Cell for Capacity Building at Central level:** To look into the aspects of demand creation, augmenting supply side, strengthening linkages between institutions and cities etc.
- **Strengthen Training Institutes:** Need for states with relatively low urbanisation rates to establish an urban cell in existing **Administrative Training Institutes (ATIs).**
- **Capacity building through partnership:** For example, Engage NGOs for selected tasks like training of elected representatives especially for schemes like **slum rehabilitation, urban poverty alleviation, financial inclusion etc.**

7.2. FINANCES OF PANCHAYATI RAJ INSTITUTIONS (PRIS)

Why in the news?

Reserve Bank of India (RBI) released its report titled “Finances of Panchayati Raj Institutions”. The report discusses the fiscal position of PRIs for the years 2020-21 to 2022-23.

Constitutional Provisions for Financial Empowerment of Panchayats

- **Article 243H:** Provides for **finance for the Panchayats** by securing authorization from State Legislatures for grants-in-aid to Panchayats from Consolidated Fund of State.
 - It empowers panchayats to impose, collect, and allocate taxes, duties, tolls, and fees.
- **Article 243-I:** Setting up a **State Finance Commission (FC) every 5 years** to review the financial position of Panchayats and make recommendations to improve their financial position.
- **Article 280(3) (bb):** Mandates **Central Finance Commission to recommend measures needed to augment Consolidated fund of state and supplement panchayat resources** (on basis of recommendations made by Finance Commission of State) to President.

Sources of Finance for PRIs	
Internal/Own sources of revenue	<ul style="list-style-type: none"> • Tax Revenue: Property tax on lands (other than Agriculture Land); etc. • Nontax revenue: Fees on Registration of Cattle sold within the Panchayat area etc.
Transfer of Funds from Central Finance Commission (CFC) and State Finance Commission (SFC)	<ul style="list-style-type: none"> • Tied Grants: For specific sectors like sanitation, education. • Untied Grants: No specific conditions; for local needs. • Performance-based Grants: Based on CFC recommendations and performance criteria. • Special Category Grants: Additional support for unique challenges of PRIs in specific regions.
Other Sources	<ul style="list-style-type: none"> • Transfer from Central Government and State Government under different schemes like MGNREGA, PMAY (Rural), Sansad Adarsh Gram Yojana etc. • Grants from international bodies like World Bank, etc.

Challenges associated with the finance of PRIs

- **Structural challenges:** **Inadequate financial resources, heavy reliance on grants** from upper tiers of government; and **weak infrastructure** impede PRIs functioning.
 - Around **95 % of their revenues** come from grants by higher levels of government.
- **Inconsistency in data:** Assessment of fiscal health of PRIs is difficult due to **lack of data on their revenues and expenditures and lack of skilled staff** to maintain data in standardised formats.

- Audit reports have been generated for only **46% of Gram Panchayats** for 2019-20.
- **Tax revenue:** Sources of revenue for PRIs are limited, mainly property taxes, fees, and fines.
- **Corruption:** For example, **Rs 1.58 crore** was diverted from gram panchayat account without prior permission from panchayat body and higher officials in Vijayawada.
- **State Finance Commissions (SFC):** As per rural development and Panchayati raj report, only 9 states have been constituting SFCs regularly, and out of them, only two are active.

Initiatives taken to improve financial ecosystem of PRIs

- **e-Gram Swaraj:** A platform for effective monitoring.
- **Gram Panchayat Development Plan (GPDP)** prepared in a participatory manner under people’s Plan Campaign.
- **Capacity Building- Panchayat Sashaktikaran Abhiyan (CB-PSA):** It had aided **States/ UTs for capacity building and training of Panchayat Elected Representatives.**
- **Rastriya Gram Swaraj Abhiyan (RGSA):** It aims to **efficiently utilise** available resources for realizing sustainable solutions to local problems **linked to SDGs.**

Way forward

- **Increase budgetary allocations:** To ensure **PRIs have sufficient resources** to fulfill their responsibilities.
- **Accountability:** Enforce strict financial accountability measures, **regular and independent audits, and transparent reporting mechanisms to prevent misuse of funds** and corruption.
- **Strengthening SFC:** SFCs should be **constituted timely every 5 years** and reports should be tabled in state legislatures regularly.

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8. IMPORTANT ACTS AND LEGISLATIONS

8.1. NARI SHAKTI VANDAN [CONSTITUTION (106TH AMENDMENT)] ACT, 2023

Why in the News?

Parliament received the assent of President on Nari Shakti Vandana [Constitution (106th Amendment)] Act, 2023.

Key provisions of the Act

- **Article 330A and Article 332A Inserted:** Reservation of 1/3rd seats for women in **Lok Sabha (LS) and State legislative assembly** respectively.
 - It also includes **reservation of 1/3rd seats for women belonging to SC/ST** under Article 330 and 332.
- **Articles 239AA amended:** Reservation of nearly 1/3rd seats for women (including SC seats) in Legislative Assembly of National Capital Territory (NCT) of Delhi.
- **Article 334A inserted:** Reservations shall come into effect **after delimitation is undertaken** after relevant figures for **first census** (after commencement of act) have been published and cease to have effect after expiration of **15 years**.
 - **Periodic rotation of seats** reserved for women after each delimitation as Parliament may by law determine.
 - Provisions of this act **shall not affect any representation in legislative assemblies and Lok Sabha until their dissolution**.

Need for women's reservation in legislature

- **Under-representation of women in legislature:** 74 MPs elected to 18th LS are women. This is marginally lower than in 2019, when 78 women were elected.
- **Gender-sensitization of public policy:** To address problems like **lower female labour force participation, increasing crime rates against women**, etc.
- **Evidence from reservation at local level:** According to **Oxfam India**, reservation for women at local level led to increase in reporting of crimes, improved access to basic amenities like drinking water, schools, etc.
- **Patriarchal nature of political parties.**

Concerns with the Act

- **Against equality:** Reservation **contradicts the constitutional principle of equality**, as women may not be competing on merit.
- **Impact on voter's choices:** Counter the idea of **self-determination** (being involved in decision-making).
- **Non-homogeneous group:** Women, unlike caste groups, are not a homogeneous community, thus arguments for caste-based reservations do not apply to them.
- **Less impact on political empowerment of women:** There are larger issues of electoral reforms like criminalization of politics, internal democracy in political parties, etc., that might act as an impediment.
- **Rotating seats after each delimitation:** This may decrease MPs' motivation to work for their constituencies due to uncertainty of re-election in same area.
- **No reservation in Rajya Sabha and Legislative Councils of States:** It is against **Geeta Mukherjee Committee (1996)** recommendation.

Conclusion

To achieve desired outcomes, it is vital to conduct and publish the **census data and delimitation exercise** under Article 82 within the specified time limits. Furthermore, capacity building efforts should focus on involving civil society and other institutions in **providing training and mentorship to women leaders** at the local level, thereby promoting effective and inclusive leadership.

8.2. TELECOMMUNICATIONS ACT, 2023

Why in the news?

Recently, multiple sections of Telecommunications Act, 2023 (replace Indian Telegraph Act 1885) came into effect.

Salient features of Act that comes into force

- **Define various terminologies like telecommunication, spectrum, user** etc., thereby reducing uncertainties and improving investor confidence and ease of doing business.
- **RoW (Right of Way) framework** over public or private property shall be granted on a **non-discriminatory and non-exclusive basis**.
- **Central Government may notify standards and conformity assessment measures** for telecommunication services, networks, security, distribution and sale of telecommunication equipment; etc.
- **Protection of users (by Central government)** which include prior consent to receive specified messages like advertising messages, creation of Do Not Disturb registers, etc.
- **Expands scope of Universal Service Obligation Fund** which will now become **Digital Bharat Nidhi** (under control of central government).
 - This fund can be used to **support research and development of telecommunication services, technologies, products and pilot projects**.

Other Key Provisions of Act

Key provisions	Telecommunications Act 2023
Assignment of spectrum	<ul style="list-style-type: none"> • Spectrum allocation will be through auction and for specified uses on an administrative basis. <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p style="text-align: center;">Specified purposes include</p> </div>
Appointments to TRAI	<ul style="list-style-type: none"> • TRAI Act has been amended to allow individuals with: <ul style="list-style-type: none"> ○ at least 30 years of professional experience to serve as Chairperson, and ○ at least 25 years of professional experience to serve as members.
Adjudication process	<ul style="list-style-type: none"> • Appointment of an adjudicating officer to conduct inquiries against civil offences. • Appeals against the orders of Designated Appeals Committee, in connection to breach of terms and conditions, may be filed with Telecom dispute settlement and appellate tribunal within 30 days.
Authorization for telecom-related activities	<ul style="list-style-type: none"> • Prior authorization of central government needed to provide, operate, maintain or expand new telecommunication services and to possess radio equipment.

Some concerns highlighted with Act

- **Privacy concerns:** Provision of allowing interception and monitoring of messages can be misused, leading to issues like data leakages.
 - Also, requirement of **biometric verification for users may not be proportionate** and hence, may infringe upon fundamental right to privacy.



- **Lack of clarity in definitions:** Broad definition of telecommunication services is open to interpretation and could include online platforms like WhatsApp.
- **Delegated legislation:** Government may add, modify, or remove offences in Third Schedule to Act by a notification. It has been debated that such changes should only be through an Act of Parliament.

Conclusion

Act straightens out several issues in Telecom Sector like issue of Spectrum allocation. To further restore health of telecom sector and address apprehensions, **multi-stakeholder approach should be taken towards its implementation.**

8.2.1. OVER-THE-TOP (OTT) PLATFORMS REGULATIONS

Why in the News?

Ministry of Information & Broadcasting (I&B) has taken action in coordination with various intermediaries to block 18 OTT platforms (Hunters, Rabbit, Prime Play etc.) publishing obscene and vulgar content.

About Over the Top (OTT) Platforms

- OTT is an application accessed and delivered over the public Internet.
 - **OTT communications services**, provide real-time person to person telecommunication services over internet e.g. Whatsapp, Telegram etc.
 - **OTT application services**, include all other OTT services like media services, trade and commerce services, cloud services, social media e.g. Facebook, Amazon, Netflix etc.
- **Regulation of OTT Platforms**
 - **IT (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021** under IT Act 2000 prescribe a framework for regulation of content by online publishers of news and current affairs and curated audio-visual content (like films, series, and podcasts).
 - Recently, Union Minister for communications and IT clarified that OTT communication services like WhatsApp are not covered under Telecommunications Act 2023.
 - **Telecom Disputes Settlement and Appellate Tribunal** held that OTT streaming platforms do not fall under the jurisdiction of TRAI.

Why Regulate OTT Platforms?

- **Consumer Protection:** Regulations enforce standards for privacy, data security, and transparent subscription practices, safeguarding consumers.
- **Content Broadcast:** OTT platforms often feature explicit drug use, violence, and abusive language, potentially eroding societal norms and values.
- **Revenue Generation:** Regulation ensures proper reporting and taxation of revenues from OTT platforms, contributing to the economy.
- **Security:** OTT communication services can be misused by terrorists and anti-social elements, necessitating regulation. It also facilitates selectively ban of OTT Apps in disturbed areas to prevent disruption of critical services such as education and health.
- **Level Playing Field:** Regulating OTT platforms promotes fair competition, ensuring traditional media like TV and cinema, which face strict content regulations, are not disadvantaged.

Concerns associated with regulation of OTT Platforms

- **Potential of Over Regulation:** Imposing additional regulations could negatively impact spontaneous initiatives and partnerships driving the growth of sectors.
- **Economic Impacts:** A unified regulatory framework could raise costs for OTTs, potentially increasing consumer prices and hindering innovation due to diverted resources.
- **Barrier to Entry:** Complex collaboration regulations for new OTT entrants could hinder their establishment, reducing competition in the OTT space.

- **International Jurisdiction Issues:** OTT platforms operate globally, thus a singular regulatory framework in one country can complicate OTT operations for global audiences.

Way Forward

- **Regulatory framework:** Develop a comprehensive regulatory framework that specifically caters to unique characteristics of OTT platforms, and ensure that regulations remain dynamically relevant in a rapidly changing digital landscape.
- **Freedom vs competition:** Steps should be taken to strike a balance between creative freedom, responsible content consumption, consumer protection, and fair competition.

8.2.2. INTERNET SHUTDOWN

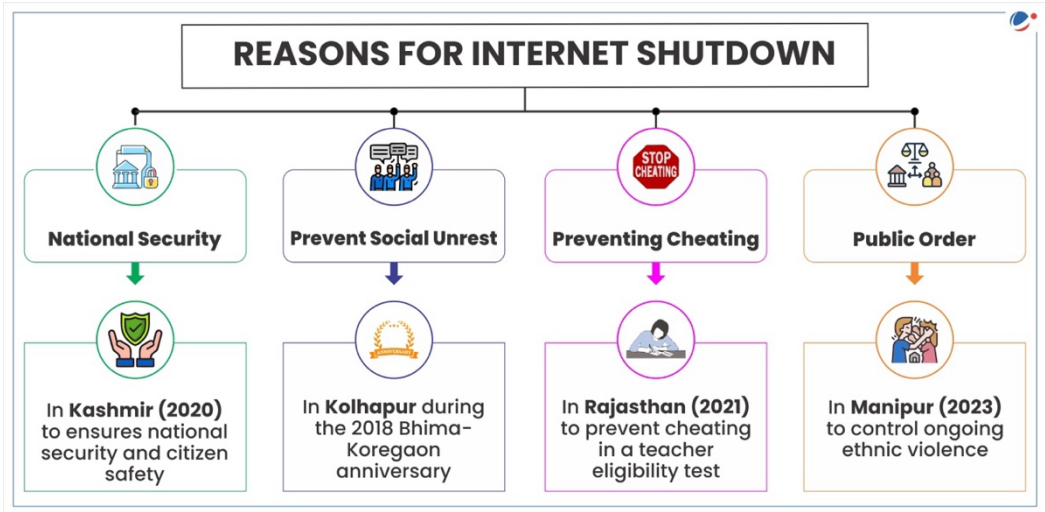
Why in the news?

As per an ‘Access Now’ report, **India witnessed 116 shutdowns in 2023**, the **highest** number of shutdowns in world for the sixth consecutive year.

About Internet shutdown

- **Internet Shutdown** is an **intentional disruption of internet communications for specific population or within a location** for any duration of time, often to exert control over information flow.
- Currently, suspension of telecom services (including internet shutdowns) is governed by **Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017**, notified under **Indian Telegraph Act, 1885**.
 - It provides for a **temporary shutdown of telecom services** in a region on **grounds of public emergency** (up to 15 days at once).

Orders of temporary suspension are to be issued by **Union/State Home Secretary Only**.
 Under 2017 Rules, **three-member Review Committee** headed by **Cabinet Secretary** at central level and **Chief Secretary at state level**, reviews telecom/internet shutdown orders.



Impact of Internet Shutdown


- **Economic loss:** Loss of \$118 million in foreign investment from Jan- June 2023 alone.
- **Fundamental rights:** Impact access to information, curbing digital freedom and fundamental rights like freedom of speech and expression (Article-19), practice any profession (Article 19 (1) (g)) etc.
- **Inequality:** Shutdowns disproportionately affect marginalized communities, hindering their access to newer revenue streams and opportunities.
- **Disaster management:** Loss of communication **hinders information dissemination w.r.t. early warning**, evacuation routes, and further exacerbating impact of disasters.
- **Education and Healthcare:** Shutdowns hinders access to **online services** like education platforms, healthcare information etc.

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- **Protest and Violence:** Disconnects people from rest of world, creating ambiguity, frustration, and further triggering strikes that can escalate into violence.
- **Human rights abuse:** Shutdowns impedes accountability where attackers utilise the disruption to cover up their offenses like killing, arson, gender-based violence etc.

Way ahead

- **Recommendations of Parliamentary Standing Committee:**
 - **Codify defined parameters** that constitute as public emergency and public safety.
 - Putting in place **a mechanism to decide merit of an internet shutdown.**
 - Lay down clear **principle of proportionality** (action taken not excessive relative to the desired outcome) and procedure for lifting of shutdown.
 - Department of Telecommunication should formulate policy to **selectively restrict use of OTT services instead of banning internet as a whole.**
- Government should clearly communicate to users any limitations, restrictions, or change to service they may experience and **provide regular updates on status and duration of shutdown.**



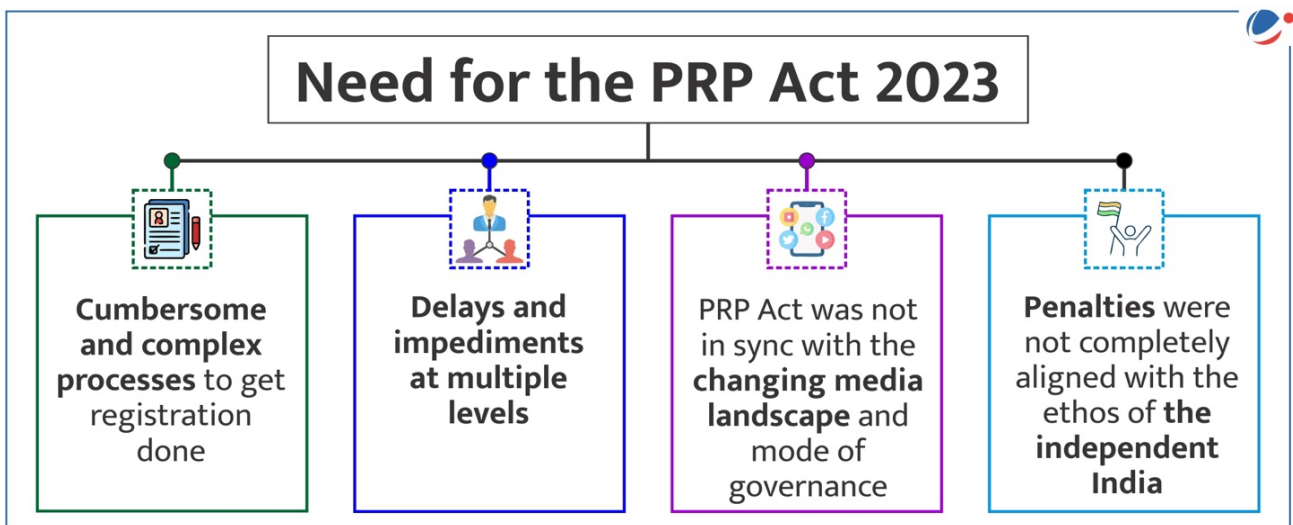
Important Judicial Pronouncements in context of Internet shutdown

- **Anuradha Bhasin vs. Union of India (2020):** SC ruled that internet freedom is part of Article 19(1)(a), with restrictions permissible under Article 19(2). **Court had passed following directions**
 - Suspension can be **utilised for temporary duration only.**
 - Any order of suspending internet is **subject to judicial review.**
- **Foundation for Media Professionals v. Union Territory of J&K (2020):** SC recognized that rights to speech, health, education, and business must be balanced with national security concerns.

8.3. PRESS AND REGISTRATION OF PERIODICALS ACT, 2023

Why in the news?

President has **granted assent to Press and Registration of Periodicals Bill, 2023** repealing the colonial era law of the Press and Registration of Books Act, 1867.



Benefits of PRP Act 2023

- **Digitalization:** It allows for information regarding printing presses to be submitted through an **online portal**.
- **Fast-tracking process:** Act allows the publisher of a periodical to obtain a **registration certificate by filing an online application with Press Registrar General (PRG)** and specified local authority.
- **Decriminalization:** It substantially decriminalizes all violations under the old one, thus **shedding colonial legacy**. For e.g., by replacing **jail terms with fines**.
- **Provides clarity:** on cases like facsimile editions of a foreign publication, Circulation Verification of newspapers, Ownership Transfer etc.
 - **For e.g.,** Facsimile (exact reproduction of original) of a **foreign periodical** may be printed in India only with **prior approval of central government**.
- **Ease in Cancelling Registration process:** It empowers **PRG** to suspend/cancel Certificate of Registration.
 - In 1867 Act, **only District Magistrate** could cancel the declaration of a periodical.

Conclusion

2023 act is in sync with the present age of free press and upholding media freedom. It provides for digital governance with an emphasis on faster and more efficient service delivery through a troika of trust, transparency, and technology.

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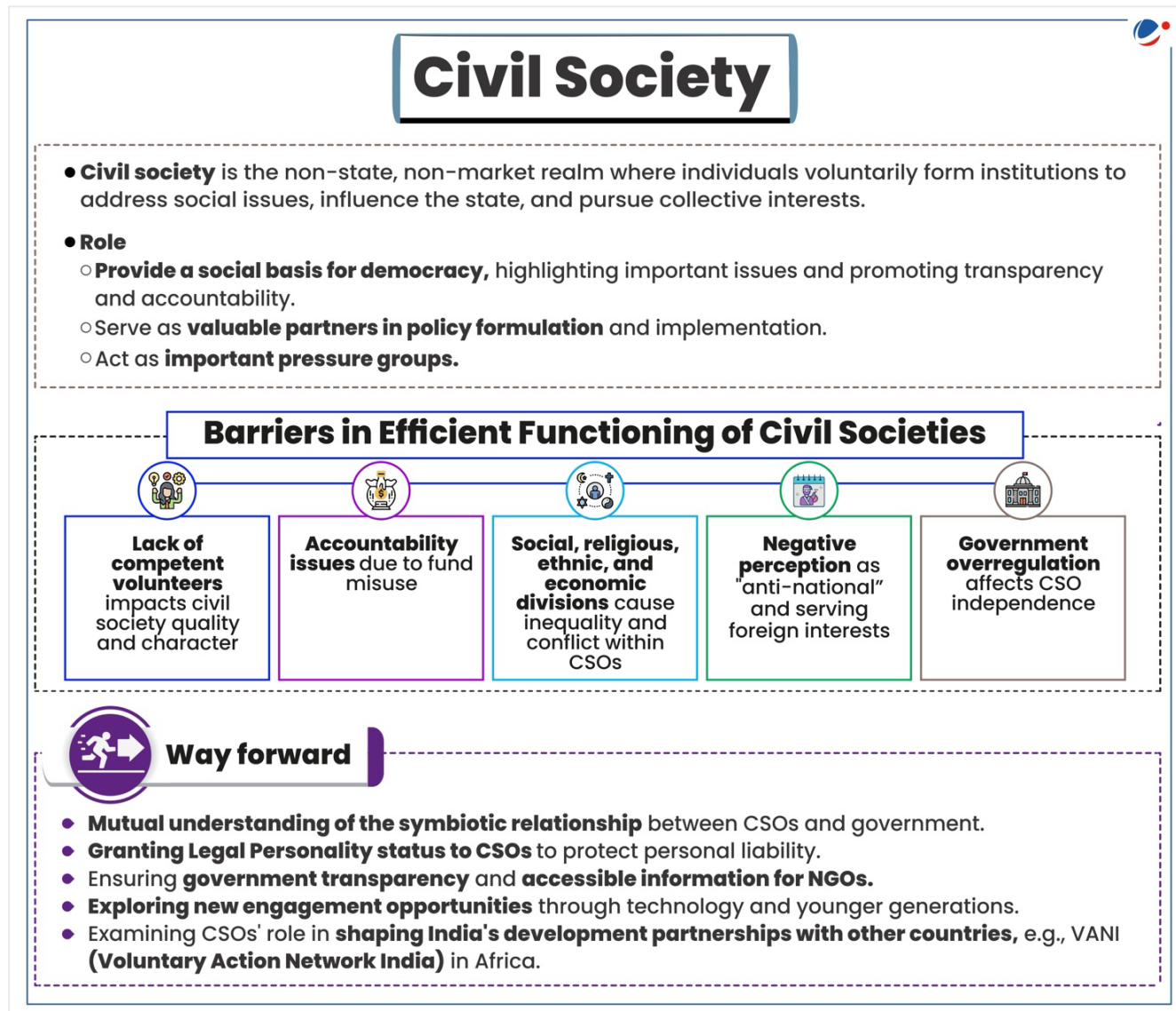
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9. MISCELLANEOUS

9.1. CIVIL SOCIETY AT A GLANCE



9.1.1. RELATIONSHIP BETWEEN STATE AND CIVIL SOCIETY

Why in the News?

The trend of states privatizing previously public services or outsourcing governance functions to private entities has reshaped the role of government and its relationship with both the private sector and civil society organizations (CSOs).

More on News

- Reshaping of the role of government is quite evident in increasing **use of PPP in execution of public projects**, strategic divestment under **New Public Sector Enterprise (PSE) Policy for Atma Nirbhar Bharat**, etc.
- Further, reshaping of relationship between state and CSOs can be seen in **increased emphasis on stakeholder engagement, social audits and citizen monitoring of government programs**, etc.

- This reshaping of the role of government and its relationship with private sector and civil society largely falls under ‘**New Public Governance**’.

About New Public Governance (NPG)

- NPG **emphasizes collaboration across government, private, and civil sectors** to tackle societal challenges, prioritizing participative, inclusive approaches over market-driven models.
- It focuses on **democratic engagement and co-production of services**, aiming for holistic and **network-based governance solutions**.
- Governance model under NPG differs from traditional approaches to governance, namely – **Welfare state** and **New Public Management**.

Manifestation of NPG in relationship between State and CSOs in India

Cooperation

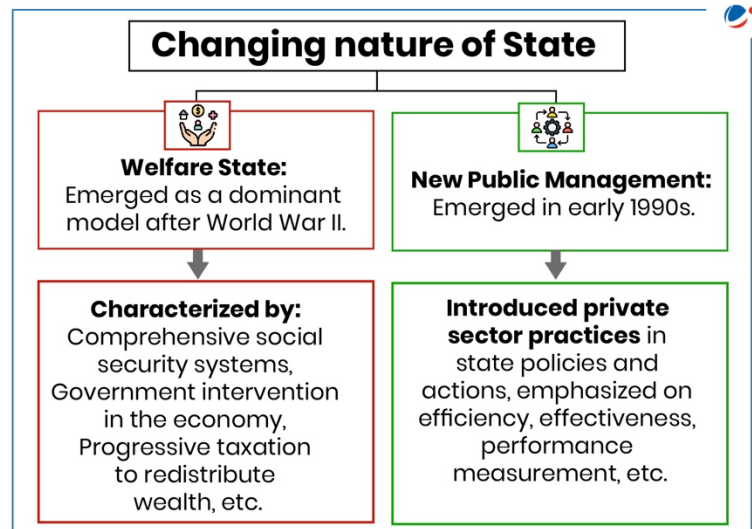
- **Collaborative partnership** in implementation of social welfare schemes and developmental programs.
 - e.g., Akshaya Patra Foundation works with the government to provide mid-day meals to school children.
- **Policy engagement** in policy formulation and provide expert inputs to state agencies
 - e.g., Centre for Policy Research contributes to policy formulation through research and consultations with government bodies.

Conflict

- **Regulatory:** Increased scrutiny and regulations of CSOs, particularly regarding foreign funding.
 - e.g., In 2020, Amnesty International ceased operations in India citing freezing of its bank accounts under FCRA regulations.
- **Advocacy and activism:** CSOs involved in advocacy, particularly on issues like human rights, environmental protection, and social justice, often face challenges from the state.
 - e.g., Narmada Bachao Andolan faced challenges in advocacy against large dam projects.

Conclusion

While there are many areas of productive engagement, particularly in service delivery and development work, there are also challenges around advocacy, funding, and regulatory compliance. The relationship continues to evolve, shaped by political, social, and economic factors in the contemporary diverse and dynamic context.



9.2. SOCIALISM IN INDIA

Why in the News?

Eminent Socialist leader and former Chief Minister of Bihar Karpooori Thakur has been conferred with Bharat Ratna, posthumously.

About Socialism

- Socialism deals with **principles which envisage establishment of a society** where **all individuals enjoy equality** in different walks of life – economic, political, social, etc.
- **Two types** of socialism: **Revolutionary** (Marxian) socialism and **Evolutionary** socialism.



- **Revolutionary:** Advocates violent revolution to abolish private property and establish a dictatorship of the proletariat.
- **Evolutionary:** Advocates for social forces to assist state organs in forming and implementing socialist policies.
- **Prominent Indian socialist leaders:** Acharya Narendra Dev, Jaya Prakash Narayan, Ram Manohar Lohia, among others.
 - **Acharya Narendra Dev's** visit to address a peasant rally at Waini motivated **Karpoori Thakur** to join freedom movement and Socialist politics.

Contributions of Socialist politics in India

- **Pre – independence**
 - Socialist ideals like anti-colonialism, equality, social justice, etc., provided **ideological framework for freedom struggle**.
 - **Grassroots mobilization** of workers, peasants, and marginalized communities by Socialist leaders/ organizations in nationalist movement.
- **Post – independence**
 - **Constitutional:** Ideals of equality and social justice enshrined in Constitution are inspired by socialist principles.
 - **Strengthening democracy:** Socialist leaders, parties, and movements led to emergence of regional political parties which played crucial role in strengthening Indian democratic system.
 - **Economic policy:** Socialist policies emphasized state involvement in sectors like steel, energy, and heavy industries, leading to **development of Mahalanobis Plan and Public Sector Enterprises**.
 - **Social welfare:** Socialist principles shaped welfare programs for marginalized sections like PDS, reservation policies etc.
 - ✓ Different **socialist movements** like **Bhoodan movement by Acharya Vinobha Bhave** influenced policies like land reforms.

Contemporary relevance of Socialism in India

- **Social justice imperative:** Persistent social issues like caste discrimination, disparity in access to basic amenities like health and education, etc., call for inclusion of socialist principles in state policies.
- **Emergence of new forms of discrimination** and issues like discrimination based on sexuality, religious intolerance, etc., also seek advocacy for socialist policies in governance.
- **Economic inequality:** Addressing stark economic equality need emphasis on socialist principles like wealth redistribution, guaranteed access to basic necessities, etc.
 - **e.g., Mandatory Corporate Social Responsibility and Progressive taxation policy** are, in essence, a reflection of socialist ideals in economic sphere.
- **Issues with Capitalism:** Market-driven model of growth is associated with different set of issues such as **exploitation of labor, environmental degradation**, etc.
 - In such context, socialism can prove to be an **alternative to promote collective well-being** over individual profits.
- **Political landscape:** Political parties and social groups align themselves with varying degrees of socialist ideologies, thus influencing policy discussions and implementation based on socialist principles.

Contemporary challenges for Socialism

- **LPG reforms:** Economic liberalization under LPG reforms in early 1990s resulted in a shift socialist policy of the past towards a more **market-oriented approach**.
 - **Integration of Indian economy with Global economy** resulted in greater emphasis on need to participate in global trade and attract foreign investment.
- **Adverse economic precedents:** Stagnant growth rate (around 4% - termed by some scholars as '**Hindu Rate of Growth**') during pre-LPG reforms era.
 - Economic and business activities during that era were characterized by **License-Quota-Permit Raj** which resulted in **rent-seeking activities, inefficient performance of PSEs**, among others.

- **Fragmented political ecosystem:** with emergence of stronger regional parties and deviation from ideologies for electoral gains.
- **Socio-cultural:** Rising aspirations of the middle class for material prosperity conflict with socialism's emphasis on collective well-being.
- **Legitimacy and credibility:** Historical baggage of negative connotations associated with past socialist regimes and state-controlled economy. **E.g.,** Disintegration of erstwhile USSR.

Way Forward

- **Balancing socialism with market economy:** Strike an effective balance between state intervention and market mechanisms to achieve inclusive and sustainable development.
 - Promote **socially responsive market economy** by ensuring effective implementation of concepts like CSR, ESG, etc., in corporate governance.
- **Strengthen public sector efficiency:** By enhancing transparency, improving accountability, and reducing bureaucratic red tape to curb corruption and enhance effectiveness of service delivery to citizens.
- **Encourage democratic socialism:** Through participatory decision-making and civic engagement in policy making to reflect diverse needs and aspirations in policies of the State.
- **Harness technology,** like digital platforms, for efficient governance, citizen engagement, and empowering marginalized communities.
- **International collaboration:** Foster partnerships and collaboration with like-minded countries and international organizations to advance collective social good in international context.

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9.3. RIGHT TO INFORMATION (RTI)

Why in the news?

Supreme Court directed Centre and State governments to fill the vacancies in Central Information Commission (CIC) and State Information Commission (SIC).

About the Right to Information (RTI)

- RTI means that **any Indian citizen can request any information** (which is supposed to be public knowledge) **from offices and departments** of state or central governments.
 - Government of India passed a landmark Right to Information Act in 2005.
 - It **replaced Freedom of Information Act, 2002**.
- Earlier in 1986, Supreme Court through its judgement in **Mr. Kulwal v/s Jaipur Municipal Corporation case** directed that **freedom of speech and expression provided under Article 19 implies RTI**, as without information freedom of speech and expression cannot be fully used by citizens.

Significance of RTI Act



Empower citizens by equipping them with power to seek information from public authorities



Promote transparency and accountability in working of Government



Reduce corruption, and make democracy work for people in real sense



Strengthen government- public relation through improved communication



Improve government records/database management



Increase awareness among citizens and strengthens parliamentary democracy

Concerns associated with implementation of Right to Information (RTI)

- **Poor record-keeping:** RTI applicants have been denied information due to factors like **lack of records; records are not in a proper format or have gone missing**.
 - Information was denied especially in case **information was sought on buildings, land titles, and transfer of officers** among others.
- **Lack of infrastructure and staff:** As per Commonwealth Human Rights study, **total number of RTI pleas rose by 83%** between 2012-13 and 2018-19.
 - Also, ICs in **Manipur, Chhattisgarh, Maharashtra, Bihar, and Punjab** are functioning without a CIC.
- **Huge pendency and delays:** As per Satark Nagrik Sangathan study, **approx. 3.14 lakh appeals and complaints were pending** as of June 2022.

- **Threat and Violence:** In last 15 years, more than 80 people who had filed RTI applications have been killed while 175 others have been attacked, and several applicants reported being harassed.
- **Lack of awareness among masses:** about their rights under RTI Act, leading to **underutilization of law** especially in rural India.

Way forward

- **Filling up vacant posts:** As mandated by Supreme Court in **Anjali Bhardwaj and Ors v. Union of India case 2019**.
- **Awareness Campaigns:** Conduct extensive awareness campaigns and make it a part of **school/college curriculum** to educate citizens about their rights.
- **Protect whistleblowers:** Strengthen legal provisions to protect whistleblowers from disclosing information in public interest.
- **Provide training programs:** For government officials to familiarize them with RTI Act provisions, conduct **capacity-building programs for Public Information Officer** etc. to keep them updated on RTI Act and its implementation.
- **Proactive disclosure of information:** By public authorities without formal RTI requests which can further reduce burden of RTI applications and enhance transparency in governance structure.

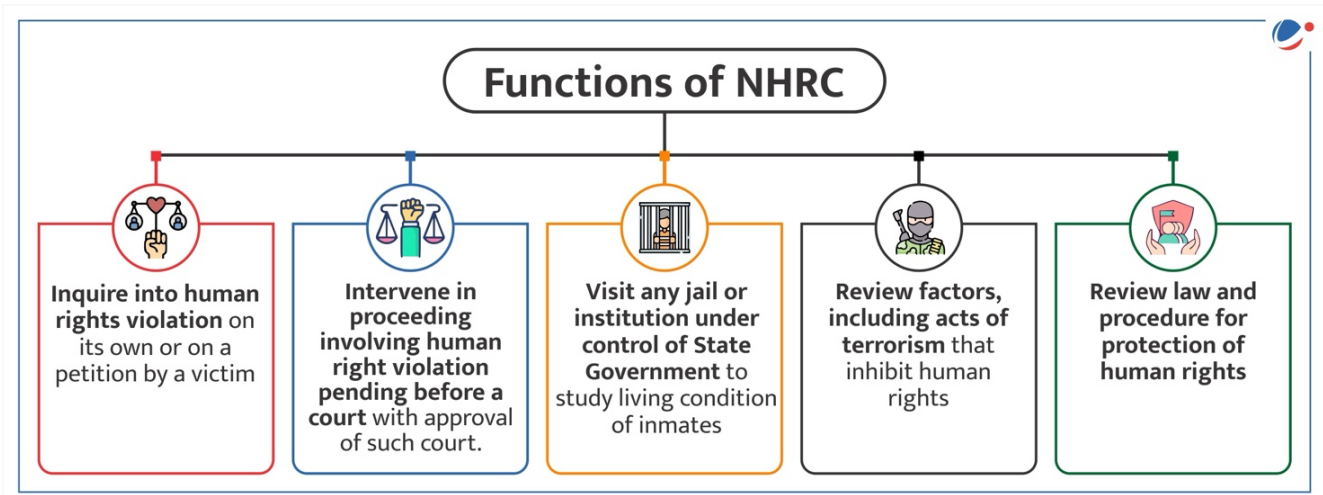
9.4. NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

Why in the news?

Recently, United Nations-linked Global Alliance of National Human Rights Institutions (GANHRI) **deferred the accreditation of NHRCI (National Human Rights Commission of India) for second year** in a row.

About the National Human Rights Commission (NHRC)

- **Genesis:** It is a statutory body, established **under Protection of Human Rights Act (PHRA), 1993** as amended in 2006 and in 2019.
- **Appointment:** Chairperson and Members of Commission are **appointed by President of India**, on recommendations of a **committee, headed by Prime Minister**
- **Powers of NHRC:** It has all the **powers of a civil court trying a suit under Code of Civil Procedure, 1908**.



Issues associated with the NHRC

NHRC **cannot consider complaints** for human rights violations which **happened more than one year before filing of complaints** or issues which are **subjudice**. This puts limits on its power.

Moreover, GANHRI has pointed out the following issues:

- **Lack of diversity:** Only 95 out of 393 staff positions are held by women in leadership positions in NHRCI.
- **Government dominated selection Committee**, thus curbing dissent of opposition.
- **Government interference:** PHR Act provides for **recruiting civil servants with rank of Secretary as Secretary General** of NHRCI which may lead to government interference in violation of Paris Principles.
- **Investigation resources:** NHRC rely on deputed officials for investigation. They may lack accountability due to insufficient oversight mechanisms.
- **Limited Engagement with Civil Society.**

Way forward

- **Independence:** PHR Act should be amended in a manner that allows independent appointment of qualified persons for investigative positions in line with Paris principles.
- **Investigation:** There is need for an **independent police complaint commission to deal exclusively with human rights issues**, as in the UK and South Africa. Also, steps should be taken to **develop the investigation wing of NHRC.**
- **Effective utilisation of statutory power:** Section 17 of PHR Act empowers NHRC to conduct its investigation if Centre/state government do not respond within stipulated time.
- **Wider collaboration:** Regular and constructive engagement with all relevant stakeholders like civil society is essential for NHRIs to effectively fulfil their mandates.
- **Other reforms:** Appointment process must ensure the **composition of NHRC reflects India's diversity, a time limit of one year should be relaxed, etc.**

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10. PREVIOUS YEAR QUESTIONS 2013-2023 (SYLLABUS-WISE)

Indian Constitution: Historical underpinnings, evolution, features, amendments, significant provisions and basic structure

- Explain the constitutional perspective of Gender Justice with the help of relevant Constitutional Provisions and case laws. (2023) 15
- “The Constitution of India is a living instrument with capabilities of enormous dynamism. It is a constitution made for a progressive society.” Illustrate with special reference to the expanding horizons of the right to life and personal liberty. (2023) 15 Marks
- “Right of movement and residence throughout the territory of India are freely available to the Indian citizens, but these rights are not absolute”. Comment. (2022) 10
- ‘Constitutional Morality’ is rooted in the Constitution itself and is founded on its essential facets. Explain the doctrine of ‘Constitutional Morality’ with the help of relevant judicial decisions. (2021) 10
- “Parliament’s power to amend the Constitution is a limited power and it cannot be enlarged into absolute power.” In the light of this statement explain whether Parliament under Article 368 of the Constitution can destroy the Basic Structure of the Constitution by expanding its amending power? (2019) 15
- Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. (2017) 15
- Discuss each adjective attached to the word ‘Republic’ in the ‘Preamble’. Are they defensible in the present circumstances? (2016) 12.5
- Did the Government of India Act, 1935 lay down a federal constitution? Discuss. (2016) 12.5
- Discuss the possible factors that inhibit India from enacting for its citizen a uniform civil code as provided for in the Directive Principles of State Policy. (2015) 12.5
- Starting from inventing the ‘basic structure’ doctrine, the judiciary has played a highly proactive role in ensuring that India develops into a thriving democracy. In light of the statement, evaluate the role played by judicial activism in achieving the ideals of democracy. (2014) 12.5
- What do you understand by the concept “freedom of speech and expression”? Does it cover hate speech also? Why do the films in India stand on a slightly different plane from other forms of expression? Discuss. (2014) 12.5
- Discuss Section 66A of IT Act, with reference to its alleged violation of Art 19. (2013) 10
- ‘The Supreme Court of India keeps a check on arbitrary power of the Parliament in amending the Constitution.’ Discuss critically. (2013) 10
- The size of the cabinet should be as big as governmental work justifies and as big as the Prime Minister can manage as a team. How far is the efficacy of a government then inversely related to the size of the cabinet? Discuss. (2014) 12.5
- Many State Governments further bifurcate geographical administrative areas like Districts and Talukas for better governance. In light of the above, can it also be justified that more number of smaller States would bring in effective governance at State level? Discuss. (2013) 10

Functions and responsibilities of the Union and the States, Issues and challenges pertaining to the federal structure

- Explain the significance of the 101st Constitutional Amendment Act. To what extent does it reflect the accommodative spirit of federalism? (2023) 15
- The jurisdiction of the Central Bureau of Investigation (CBI) regarding lodging an FIR and conducting probe within a particular state is being questioned by various States. However, the power of States to withhold consent to the CBI is not absolute. Explain with special reference to the federal character of India. (2021) 15



- How far do you think cooperation, competition and confrontation have shaped the nature of federation in India? Cite some recent examples to validate your answer (2020) 15
- Indian constitution exhibits centralising tendencies to maintain unity and integrity of the nation. Elucidate in the perspective of the Epidemic Diseases Act, 1897; The Disaster Management Act, 2005 and recently passed Farm Acts. (2020) 15
- From the resolution of contentious issues regarding distribution of legislative powers by the courts, 'Principle of Federal Supremacy' and 'Harmonious Construction' have emerged. Explain. (2019) 10
- Explain the salient features of the constitution (One Hundred and First Amendment) Act, 2016. Do you think it is efficacious enough 'to remove cascading effect of taxes and provide for common national market for goods and services? (2017) 15
- To what extent is Article 370 of the Indian Constitution, bearing marginal note "Temporary provision with respect to the State of Jammu and Kashmir", temporary? Discuss the future prospects of this provision in the context of Indian polity. (2016) 12.5
- The concept of cooperative federalism has been increasingly emphasised in recent years. Highlight the drawbacks in the existing structure and the extent to which cooperative federalism would answer the shortcomings. (2015) 12.5
- Though the federal principle is dominant in our Constitution and that principle is one of its basic features, but it is equally true that federalism under the Indian Constitution leans in favour of a strong Centre, a feature that militates against the concept of strong federalism. Discuss. (2014) 12.5

Devolution of powers and finances up to local levels and challenges therein

- To what extent, in your opinion, as the decentralization of power in India changed the governance landscape at the grassroots? (2022) 10
- The strength sustenance of local institutions in India has shifted from their formative phase of 'Functions, Functionaries and Funds' to the contemporary stage of 'Functionality'. Highlight the critical challenges faced by local institutions in terms of their functionality in recent times. (2020) 15
- "The reservation of seats for women in the institutions of local self- government has had a limited impact on the patriarchal character of the Indian Political Process." Comment. (2019) 15
- Assess the importance of the Panchayat system in India as a part of local government. Apart from government grants, what sources the Panchayats can look out for financing development projects? (2018) 15
- "The local self-government system in India has not proved to be effective instrument of governance". Critically examine the statement and give your views to improve the situation. (2017) 10
- In absence of well-educated and organised local level government system, 'Panchayats' and 'Samitis' have remained mainly political institutions and not effective instruments of governance. Critically discuss. (2015) 12.5
- Khap panchayats have been in the news for functioning as extra-constitutional authorities, often delivering pronouncements amounting to human rights violations. Discuss critically the actions taken by the legislative, executive and the judiciary to set the things right in this regard. (2015) 12.5

Separation of powers between various organs, dispute redressal mechanisms and institutions

- Discuss the desirability of greater representation to women in the higher judiciary to ensure diversity, equity and inclusiveness. (2021) 10
- Judicial Legislation is antithetical to the doctrine of separation of powers as envisaged in the Indian Constitution. In this context justify the filing of large number of public interest petitions praying for issuing guidelines to executive authorities. (2020) 15
- Do you think that constitution of India does not accept principle of strict separation of powers rather it is based on the principle of 'checks and balance'? Explain (2019) 10
- Whether the Supreme Court Judgment (July 2018) can settle the political tussle between the Lt. Governor and elected government of Delhi? Examine. (2018) 15



- Discuss the essentials of the 69th Constitutional Amendment Act and anomalies, if any, that have led to recent reported conflicts between the elected representatives and institution of Lieutenant Governor in the administration of Delhi. Do you think that this will give rise to a new trend in the functioning of the Indian Federal Politics? (2016) 12.5

Parliament and State Legislatures – structure, functioning, conduct of business, powers & privileges and issues arising out of these

- Explain the structure of the Parliamentary Committee system. How far have the financial committees helped in the institutionalisation of Indian Parliament? (2023) 15 Marks
- Discuss the role of presiding officers of state legislatures in maintaining order and impartiality in conducting legislative work and in facilitating best democratic practices. (2023) 10 Marks
- Discuss the essential conditions for exercise of the legislative powers by the Governor. Discuss the legality of re-promulgation of ordinances by the Governor without placing them before the Legislature. (2022) 15
- Discuss the role of the Vice –Presidents of India as the chairman of the Rajya Sabha. (2022) 10
- Do Department -related Parliamentary Standing Committees keep the administration on its toes and inspire reverence for parliamentary control? Evaluate the working of such committees with suitable examples. (2021) 15
- Explain the constitutional provisions under which Legislative Councils are established. Review the working and current status of Legislative Councils with suitable illustrations. (2021) 15
- To what extent, in your view, the Parliament is able to ensure accountability of the executive in India? (2021) 10
- “Once a speaker, Always a speaker”! Do you think the practice should be adopted to impart objectivity to the office of the Speaker of Lok Sabha? What could be its implications for the robust functioning of parliamentary business in India. (2020) 10
- Rajya Sabha has been transformed from a ‘useless stepney tyre’ to the most useful supporting organ in past few decades. Highlight the factors as well as the areas in which this transformation could be visible.(2020) 15
- Individual Parliamentarian’s role as the national lawmaker is on a decline, which in turn, has adversely impacted the quality of debates and their outcome. Discuss. (2019) 15
- Why do you think the committees are considered to be useful for parliamentary work? Discuss, in this context, the role of the Estimates Committee. (2018) 10
- The Indian Constitution has provisions for holding a joint session of the two houses of the Parliament. Enumerate the occasions when this would normally happen and also the occasions when it cannot, with reasons thereof. (2017) 15
- “The Indian party system is passing through a phase of transition which looks to be full of contradictions and paradoxes.” Discuss. (2016) 12.5
- What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution? (2016) 12.5
- The ‘Powers, Privileges and Immunities of Parliament and its Members’ as envisaged in Article 105 of the Constitution leave room for a large number of un-codified and un-enumerated privileges to continue. Assess the reasons for the absence of legal codification of the ‘parliamentary privileges’. How can this problem be addressed? (2014) 12.5
- The role of individual MPs (Members of Parliament) has diminished over the years and as a result healthy constructive debates on policy issues are not usually witnessed. How far can this be attributed to the anti-defection law which was legislated but with a different intention? (2013) 10
- Constitutional mechanisms to resolve the inter-state water disputes have failed to address and solve the problems. Is the failure due to structural or process inadequacy or both? Discuss. (2013) 10



Structure, organization and functioning of the Executive and the Judiciary; Ministries and Departments of the Government

- Account for the legal and political factors responsible for the reduced frequency of using Article 356 by the Union Governments since mid 1990s. (2023) 15 Marks
- “Constitutionally guaranteed judicial independence is a prerequisite of democracy.” Comment. (2023) 10
- “The most significant achievement of modern law in India is the constitutionalization of environmental problems by the Supreme Court.” Discuss this statement with the help of relevant case laws. (2022) 10
- “The Attorney-General is the chief legal adviser and lawyer of the Government of India.” Discuss. (2019) 15
- Under what circumstances can the Financial Emergency be proclaimed by the President of India? What consequences follow when such a declaration remain in force? (2018) 10
- How far do you agree with the view that tribunals curtail the jurisdiction of ordinary courts? In view of the above, discuss the constitutional validity and competency of the tribunals in India? (2018) 15
- Critically examine the Supreme Court’s judgement on ‘National Judicial Appointments Commission Act, 2014’ with reference to appointment of judges of higher judiciary in India. (2017) 10
- Resorting to ordinances has always raised concern on violation of the spirit of separation of powers doctrine. While noting the rationales justifying the power to promulgate ordinances, analyse whether the decisions of the Supreme Court on the issue have further facilitated resorting to this power. Should the power to promulgate the ordinances be repealed? (2015) 12.5
- What are the major changes brought in the Arbitration and Conciliation Act, 1996 through the recent Ordinance promulgated by the President? How far will it improve India’s dispute resolution mechanism? Discuss. (2015) 12.5
- Does the right to clean environment entail legal regulation on burning crackers during Diwali? Discuss in the light of Article 21 of Indian Constitution and Judgement(s) of the Apex court in this regard. (2015) 12.5
- Instances of President’s delay in commuting death sentences has come under public debate as denial of justice. Should there be a time limit specified for the President to accept/reject such petitions? Analyse. (2014) 12.5

Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies, Statutory, regulatory, and various quasi-judicial bodies

- Who are entitled to receive free legal aid? Assess the role of the National Legal Service Authority (NALSA) in rendering free legal aid in India. 2023 (10)
- Discuss the role of the National Commission for Backward Classes in the wake of its transformation from a statutory body to a constitutional body. (2022) 10
- Though the Human Rights Commissions have contributed immensely to the protection of human rights in India, yet they have failed to assert themselves against the mighty and powerful. Analyzing their structural and practical limitations, suggest remedial measures. (2021) 15
- How have the recommendations of the 14th Finance Commission of India enabled the states to improve their fiscal position? (2021) 10
- Which steps are required for constitutionalization of a commission? Do you think imparting constitutionality to the National Commission for Women would ensure greater gender justice and empowerment in India? Give reasons. (2020) 15
- “The Central Administration Tribunal which was established for redressal of grievances and complaints by or against central government employees, nowadays is exercising its powers as an independent judicial authority.” Explain. (2019) 10
- In the light of recent controversy regarding the use of Electronic Voting Machine (EVM), what are the challenges before the Election Commission of India to ensure the trustworthiness of elections in India? (2018) 10
- “The Comptroller and Auditor General (CAG) has a very vital role to play.” Explain how this is reflected in the method and terms of his appointment as well as the range of powers he can exercise. (2018) 10



- How is the Finance Commission of India constituted? What do you know about the terms of reference of the recently constituted Finance Commission? Discuss. (2018) 15
- Whether National Commission for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions? Examine. (2018) 10
- Multiplicity of various commissions for the vulnerable sections of the society leads to problems of overlapping jurisdiction & duplication of functions. Is it better to merge all commissions into an umbrella human rights commission? Argue your case. (2018) 15
- Exercise of CAG's powers in relation to the accounts of the Union and the States is derived from Article 149 of the Indian Constitution. Discuss whether audit of the Government's policy implementation could amount to overstepping its own (CAG) jurisdiction. (2016) 12.5
- What is quasi-judicial body? Explain with the help of concrete examples. (2016) 12.5
- National Human Rights Commission (NHRC) in India can be most effective when its tasks are adequately supported by other mechanisms that ensure the accountability of a government. In light of the above observation assess the role of NHRC as an effective complement to the judiciary and other institutions in promoting and protecting human rights standards. (2014) 12.5
- Discuss the recommendations of the 13th Finance Commission which have been a departure from the previous commissions for strengthening the local government finances. (2013) 10
- The product diversification of financial institutions and insurance companies, resulting in overlapping of products and services strengthens the case for the merger of the two regulatory agencies namely SEBI and IRDA. Justify. (2013) 10

Comparison of the Indian constitutional scheme with that of other countries

- Compare and contrast the British and Indian approaches to Parliamentary sovereignty. (2023) 10 Marks
- Critically examine the procedures through which the Presidents of India and France are elected. (2022) 15
- Analyze the distinguishing features of the notion of Equality in the Constitutions of the USA and India. (2021) 15
- The judicial systems in India and UK seem to be converging as well as diverging in the recent times. Highlight the key points of convergence and divergence between the two nations in terms of their judicial practices. (2020) 10
- What can France learn from the Indian Constitution's approach to secularism? (2019) 10
- India and USA are the two large democracies. Examine the basic tenets on which the two political systems are based. (2018) 15

Salient features of the Representation of People's Act

- Discuss the role of the Election Commission of India in the light of the evolution of the Model Code of Conduct. (2022) 15
- While the national political parties in India favour centralisation, the regional parties are in favour of State autonomy." Comment. (2022) 15
- Discuss the procedures to decide the disputes arising out of the election of a Member of the Parliament or State Legislature under the Representation of the People Act, 1951. What are the grounds on which the election of any returned candidate may be declared void? What remedy is available to the aggrieved party against the decision? Refer to the case laws. (2022) 15
- "There is a need for simplification of procedure for disqualification of persons found guilty of corrupt practices under the Representation of peoples Act" Comment (2020) 10
- On what grounds a people's representative can be disqualified under the Representation of People Act, 1951? Also mention the remedies available to such person against his disqualification. (2019) 15
- 'Simultaneous election to the Lok Sabha and the State Assemblies will limit the amount of time and money spent in electioneering but it will reduce the government's accountability to the people' Discuss. (2017) 10



- To enhance the quality of democracy in India the Election Commission of India has proposed electoral reforms in 2016. What are the suggested reforms and how far are they significant to make democracy successful? (2017) 15

Governance and Policy Government policies and interventions for development in various sectors and issues arising out of their design and implementation

- “Development and welfare schemes for the vulnerable, by its nature, are discriminatory in approach.” Do you agree? Give reasons for your answer. (2023) 15 Marks
- The crucial aspect of developmental process has been the inadequate attention paid to Human Resource Development in India. Suggest measures that can address this inadequacy. (2023) 10
- Do you agree with the view that increasing dependence on donor agencies for development reduces the importance of community participation in the development process? Justify your answer. (2022) 15
- Besides the welfare schemes, India needs deft management of inflation and unemployment to serve the poor and the underprivileged sections of the society. Discuss. (2022) 15
- “Besides being a moral imperative of Welfare State, primary health structure is a necessary pre-condition for sustainable development.” Analyze. (2021) 10
- ‘In the context of neo-liberal paradigm of development planning, multi-level planning is expected to make operations cost effective and remove many implementation blockages.’ - Discuss. (2019) 15
- “Policy Contradictions among various competing sectors and stakeholders have resulted in inadequate ‘protection and prevention of degradation’ to environment.” Comment with relevant illustrations. (2018)10
- Has the Indian governmental system responded adequately to the demands of Liberalization, Privatization and Globalization started in 1991? What can the government do to be responsive to this important change? (2016) 12.5
- “For achieving the desired objectives, it is necessary to ensure that the regulatory institutions remain independent and autonomous.” Discuss in the light of experiences in recent past. (2015) 12.5
- Two parallel run schemes of the Government, viz. the Aadhaar Card and NPR, one as voluntary and the other as compulsory, have led to debates at national levels and also litigations. On merits, discuss whether or not both schemes need run concurrently. Analyse the potential of the schemes to achieve developmental benefits and equitable growth. (2014) 12.5
- Though 100 percent FDI is already allowed in non-news media like a trade publication and general entertainment channel, the Government is mulling over the proposal for increased FDI in news media for quite some time. What difference would an increase in FDI make? Critically evaluate the pros and cons. (2014) 12.5
- The setting up of a Rail Tariff Authority to regulate fares will subject the cash strapped Indian Railways to demand subsidy for obligation to operate non-profitable routes and services. Taking into account the experience in the power sector, discuss if the proposed reform is expected to benefit the consumers, the Indian Railways or the private container operators. (2014) 12.5
- An athlete participates in Olympics for personal triumph and nation’s glory; victors are showered with cash incentives by various agencies, on their return. Discuss the merit of state sponsored talent hunt and its cultivation as against the rationale of a reward mechanism as encouragement. (2014) 12.5
- Recent directives from Ministry of Petroleum and Natural Gas are perceived by the ‘Nagas’ as a threat to override the exceptional status enjoyed by the State. Discuss in light of Article 371A of the Indian Constitution. (2013) 10

Pressure groups & formal/informal associations & their role in Polity

- “Pressure groups play a vital role in influencing public policy making in India.” Explain how the business associations contribute to public policies. (2021) 10
- What are the methods used by the Farmers organizations to influence the policy- makers in India and how effective are these methods? (2019) 10
- How do pressure groups influence Indian political process? Do you agree with this view that informal



pressure groups have emerged as powerful as formal pressure groups in recent years? (2017) 10

- Pressure group politics is sometimes seen as the informal face of politics. With regards to the above, assess the structure and functioning of pressure groups in India. (2013) 10

Development processes and the development industry- the role of NGOs, SHGs, various groups and associations, donors, charities, institutional and other stakeholders

- Skill development programmes have succeeded in increasing human resources supply to various sectors. In the context of the statement, analyse the linkages between education, skill and employment. (2023) 15
- Discuss the contributions of civil society groups for women's effective and meaningful participation and representation in State Legislatures in India. (2023) 15
- Discuss the role of the Competition Commission of India in containing the abuse of dominant position by the Multi-National Corporations in India. Refer to the recent decisions. (2023) 10
- "The states in India seem reluctant to empower urban local bodies both functionally as well as financially." Comment 2023 (10 Marks)
- Can Civil Society and Non-Governmental Organizations present an alternative model of public service delivery to benefit the common citizen. Discuss the challenges of this alternative model. (2021) 15
- "Micro-Finance as an anti-poverty vaccine, is aimed at asset creation and income security of the rural poor in India". Evaluate the role of Self-Help Groups in achieving the twin objectives along with empowering women in rural India. (2020) 15
- The need for cooperation among various service sector has been an inherent component of development discourse. Partnership bridges bring the gap among the sectors. It also sets in motion a culture of 'Collaboration' and 'team spirit'. In the light of statements above examine India's Development process. (2019) 15
- Despite Consistent experience of High growth, India still goes with the lowest indicators of human development. Examine the issues that make balanced and inclusive development elusive. (2019) 10
- The emergence of Self-Help Groups (SHGs) in contemporary times points to the slow but steady withdrawal of the state from developmental activities'. Examine the role of the SHGs in developmental activities and the measures taken by the Government of India to promote the SHGs. (2017) 15
- "In the Indian governance system, the role of non-state actors has been only marginal." Critically examine this statement. (2016) 12.5
- "Effectiveness of the government system at various levels and people's participation in the governance system are interdependent" Discuss their relationship in the context of India. (2016) 12.5
- Examine critically the recent changes in the rules governing foreign funding of NGOs under the Foreign Contribution (Regulation) Act (FCRA), 1976. (2015) 12.5
- The Self Help Group (SHG) Bank Linkage Programme (SBLP), which is India's own innovation , has proved to be one of the most effective poverty alleviation and women empowerment programmes. Elucidate. (2015) 12.5
- How can the role of NGOs be strengthened in India for development works relating to protection of the environment? Discuss throwing light on the major constraints. (2015) 12.5
- The penetration of Self Help Groups (SHGs) in rural areas in promoting participation in development programmes is facing socio-cultural hurdles. Examine. (2014) 12.5
- The legitimacy and accountability of Self Help Groups (SHGs) and their patrons, the micro-finance outfits, need systematic assessment and scrutiny for the sustained success of the concept. Discuss. (2013) 10

Important aspects of governance, transparency and accountability, e-governance- applications, models, successes, limitations, & potential

- e-governance, as a critical tool of governance, has ushered in effectiveness, transparency and accountability in governments. What inadequacies hamper the enhancements of these features? (2023) 10
- "The emergence of Fourth Industrial Revolution (Digital Revolution) has initiated e-Governance as an integral part of government". Discuss. (2020) 10

- Implementation of information and Communication Technology (ICT) based Projects / Programmes usually suffers in terms of certain vital factors. Identify these factors and suggest measures for their effective implementation. (2019) 10
- E-governance is not only about utilization of the power of new technology, but also much about critical importance of the ‘use value’ of information. Explain. (2018) 10
- Electronic cash transfer system for the welfare schemes is an ambitious project to minimize corruption, eliminate wastage and facilitate reforms. Comment. (2013) 10

Citizens charters, Transparency & accountability & institutional & other measures

- “Recent amendments to the Right to information Act will have profound impact on the autonomy and independence of the Information Commission”. Discuss (2020) 10
- The Citizen’s Charter is an ideal instrument of organizational transparency and accountability, but it has its own limitations. Identify the limitations and suggest measures for greater effectiveness of the Citizens’ Charter. (2018) 15
- Discuss the role of Public Accounts Committee in establishing accountability of the government to the people. (2017) 10
- In the light of Satyam Scandal (2009), discuss the changes brought in corporate governance to ensure transparency, accountability. (2015) 12.5
- “If amendment bill to the Whistleblowers Protection Act, 2011 tabled in the Parliament is passed, there may be no one left to protect.” Critically evaluate. (2015) 12.5
- Though Citizens’ charters have been formulated by many public service delivery organizations, there is no corresponding improvement in the level of citizens’ satisfaction and quality of services being provided. Analyse. (2013) 10

Role of civil services in a democracy

- “Institutional quality is crucial driver of economic performance”. In this context suggest reforms in Civil Services for strengthening democracy. (2020) 10
- Initially Civil Services in India were designed to achieve the goals of neutrality and effectiveness, which seems to be lacking in the present context. Do you agree with the view that drastic reforms are required in Civil Services. Comment. (2017) 15
- In the integrity index of Transparency International, India stands very low. Discuss briefly the legal, political, social and cultural factors that have caused the decline of public morality in India. (2016) 12.5
- “Traditional bureaucratic structure and culture have hampered the process of socio-economic development in India.” Comment. (2016) 12.5
- Has the Cadre based Civil Services Organization been the cause of slow change in India? Critically examine. (2014) 12.5
- ‘A national Lokpal, however strong it may be, cannot resolve the problems of immorality in public affairs.’ Discuss. (2013) 10






Previous Year Questions






Scan the QR code to download the soft copy of syllabus-wise segregated PYQs from 2013–2023 (Polity and Governance).



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11. APPENDIX

APPENDIX: KEY DATA AND FACTS		
Topics	Constitutional Provisions/ Data	Judgements/Recommendations
 Reservation	<ul style="list-style-type: none"> ▶ Article 15(4): Reservation in educational institution for Socially and Educationally Backward Classes (SEBCs), SCs and STs. ▶ Article 15 (6) and 16(6): 10% reservation for EWS for admission in educational institutions and public employment. (103rd Amendment Act 2019) ▶ Article 16(4), 16(4A) and 16(4B): Reservation in posts and services. ▶ Article 46: Promotion of educational and economic interests of SC, ST and other weaker sections of society. ▶ Article 243D: Reservation of Seats for SC and ST in Panchayats. ▶ Article 330: Reservation of seats for SC and ST in House of the People. ▶ Article 332: Reservation of seats for SC and ST in Legislative Assemblies of States. 	<ul style="list-style-type: none"> ▶ Dr Pradeep Jain v Union of India, 1984: Legislation for sons of soil would be unconstitutional but did not expressly rule on it. ▶ Indra Sawhney v Union of India, 1992: Reservation under Article 16(4) should in no case exceed 50%, No reservation in promotions; Exclusion of creamy layer from OBCs. ▶ M. Nagaraj v. Union of India, 2006: 3 conditions for reservation in promotion i.e. State must show <ul style="list-style-type: none"> ▷ Quantifiable data on backwardness of SCs/STs. ▷ Facts about their inadequate representation in public employment. ▷ Reservations are in the interest of administrative efficiency. ▶ Ram Singh and Ors. vs Union of India case, 2015: SC suggested need for a non-caste-based identification of backward classes. ▶ Jarnail Singh v Lachhmi Narain Gupta, 2018: Reservation in promotions does not require state to collect quantifiable data on backwardness of SCs and STs ▶ Janhit Abhiyan v Union of India, 2022: SC upheld 103rd Constitution Amendment Act which provided for EWS reservation, based on economic criteria.
 Citizenship	<ul style="list-style-type: none"> ▶ Article 5: Citizenship at the commencement of the Constitution. ▶ Article 6: Rights of citizenship of certain persons who have migrated to India from Pakistan. ▶ Article 7: Rights of citizenship of certain migrants to Pakistan. ▶ Article 8: Rights of citizenship of certain persons of Indian origin residing outside India. ▶ Article 9: Persons voluntarily acquiring citizenship of a foreign State not to be citizens ▶ Article 10: Continuance of rights of citizenship. ▶ Article 11: Parliament to regulate the right of citizenship by law. 	
 Hate Speech	<ul style="list-style-type: none"> ▶ Article 19(2): Hate speech curtailed on grounds of public order, incitement to offence, and security of State. ▶ Bharatiya Nyaya Sanhita, 2023 (Section 353(2)): Feelings of enmity, hatred or ill will between different religious groups etc. shall be punished with imprisonment (extend to three years, or with fine, or with both). ▶ RPA, 1951 (Section 8): Disqualifies candidates convicted for illegitimate use of speech. 	<ul style="list-style-type: none"> ▶ Pravasi Bhalai Sangathan vs U.O.I. & Ors, 2014: Court recognizing the negative impact of hate speech and referred the matter to Law Commission for in depth examination. ▶ Shreya Singhal vs Union of India, 2015: SC held that reasonable restrictions under Article 19(2) on free speech and expression may be imposed only if it incites violence or leads to public disorder.

	<p>▶ Protection of Civil Rights Act, 1955 (Section 7): Penalizes incitement to untouchability.</p>	<p>▶ Amish Devgan vs Union of India, 2020: SC highlights the need to balance competing interests of free speech and prevent spread of hatred and communal disharmony.</p>
 <p>Article 142</p>	<p>▶ Bhanwari Devi and Ors. vs State of Rajasthan, 2002: SC provided "Vishaka Guidelines" to address workplace sexual harassment, eventually resulting in Prevention of Sexual Harassment Act, 2013.</p> <p>▶ Vineeta Sharma vs. Rakesh Sharma & Ors., 2020: SC addressed conflicting judgments on daughters' coparcenary rights under Hindu Succession Act.</p> <p>▶ The Secretary, Ministry of Defense vs. Babita Puniya, 2020: SC granted permanent commission to women officers in Indian Army.</p>	
 <p>Uniform Civil Code</p>	<p>▶ Shah Bano Case (1985): SC Highlighted need for UCC among religions.</p> <p>▶ Paulo Coutinho vs Maria Luiza Valentina Pereira (2019): SC Highlights need for uniform laws for consistency.</p> <p>▶ Law Commission (2018): No UCC needed now, amends existing laws.</p> <p>▶ Law Commission of India (2022): It seeks public and religious input on UCC.</p>	
 <p>Ninth Schedule</p>	<p>▶ First Constitutional Amendment Act, 1951 added a new Article 31B.</p> <p>▶ Article 31B states that none of the acts/ regulations mentioned in Ninth Schedule shall be considered to be void on ground that they are inconsistent with any rights.</p>	<p>▶ Waman Rao V Union of India (1981): SC held that amendment to Constitution which was made before 24th April 1973 is valid (as per Kesavananda Bharati judgement and evolution of Basic Structure doctrine).</p> <p>▶ IR Coelho Vs State of Tamilnadu, 2007: Constitution bench ruled that Ninth Schedule cannot be challenged for violating fundamental rights, but can be challenged for violating basic structure of Constitution.</p>
 <p>Delimitation</p>	<p>▶ Article 82: Parliament enacts a Delimitation Act after every Census which establishes a delimitation commission.</p> <p>▶ Article 170: States get divided into territorial constituencies as per Delimitation Act after every Census.</p>	
 <p>Fiscal Federalism</p>	<p>▶ Seventh Schedule: Tax Bases Delineated in Union and State Lists (Article 246).</p> <p>▶ Distribution of Revenue:</p> <ul style="list-style-type: none"> o Article 269: Taxes levied and collected by Centre, assigned to states. o Article 269-A: GST in inter-state trade. o Article 270: Taxes distributed between Union and states per Finance Commission. <p>▶ Article 275: Financial assistance to States in form of grants-in-aid charged to revenue of India.</p> <p>▶ Borrowings:</p> <ul style="list-style-type: none"> o Article 292: Union can borrow domestically or internationally. o Article 293: State can only borrow domestically. <p>▶ Article 280: Finance Commission constituted to adjudicate sharing of resources between Union and States.</p>	



Inter State Water Disputes (ISWDs)

- ▶ **Seventh Schedule: Water is a State subject** (Entry 17, State List) and **Union Government has constitutional role only in case of Inter-State waters** (Entry 56, Union List)).
- ▶ **Article 262:** Parliament to make laws to provide for adjudication of ISWDs.
- ▶ **National Water Policy 2012:** Addresses water scarcity, **inequities in its distribution** and lack of unified perspective in planning and use of water resources.

- ▶ **National Commission to Review the Working of the Constitution** recommended to define constitution and jurisdiction of river boards to regulate, develop and control all interstate rivers.



Governor

- ▶ **Article 163:** Governor is bound by aid and advice of CoM except when required to exercise his/her functions in his/her discretion.
- ▶ **Article 200:** Governor Assent is necessary for a bill to become a law.

- ▶ **Nabam Rebia case (2016):** If a governor exercised his discretion beyond his jurisdiction or power, it would fall under subject matter of judicial review.
- ▶ **State of Punjab Case (2023):** If a Governor decides to withhold assent to a Bill, then he/she has to return bill to legislature for reconsideration. Such bill cannot be kept with Governor indefinitely.
- ▶ **Tamil Nadu Governor case (2023):** SC stated that Governor cannot refer bills to President after Assembly has re-enacted the Bills following the Governor's declaration of withholding the assent.
- ▶ **Sarkaria Commission:** Not act as an agent of President; rarely use discretion, only if Bill contravenes Constitutional provisions, and reserve it for Presidential consideration etc.
- ▶ **Punchhi Commission:** Given a fixed tenure of five years; Take decision wrt Bill presented for assent within period of six months etc.



National Capital Territory of Delhi

- ▶ **Article 239-AA**, inserted by **69th Amendment Act, 1991**, conferred special status on Delhi (on recommendations of S Balakrishnan Committee).
 - It provides that **NCT of Delhi will have an administrator and a Legislative Assembly.**
 - **Legislative Assembly** shall have power to make laws wrt any of matters in **State List or Concurrent List except on subjects of police, public order, and land.**
 - **In case of difference of opinion** between L-G and his Ministers, **L-G shall refer it to President.**



Parliamentary Privileges

- ▶ **Article 105** and **Article 194** deals with **powers, privileges of members of Parliament and State legislature** respectively.
- ▶ **Right to Prohibit Publication of Proceedings (Article 105(2), Article 194(2)).**
- ▶ **Article 121** restricts members from discussing conduct of judges of SC and HC.

- ▶ **PV Narasimha Rao vs. State:** SC stated that members need wider protection of immunity against all **civil and criminal proceedings** that bear a nexus to their speech or vote.
- ▶ **M.S.M. Sharma case:** SC stated whenever there is a condition of imbalance between provision of Part V, Article 194(3) (privileges) and fundamental rights conferred by part III, **fundamental right will remain supreme over the others.**



- ▶ **Article 93:** Establishes post of both **Speaker and Deputy Speaker.**
- ▶ **Article 94:** Removal and resignation of Speaker and Deputy Speaker.
- ▶ **Article 96:** Speaker cannot preside Lok Sabha while a resolution for his removal is under consideration.

▶ **Nabam Rebia case, 2016:** SC held that a Speaker or Deputy **Speaker facing notice of removal cannot decide disqualification proceedings** against legislators.



- ▶ 52nd Amendment Act 1985.
- ▶ Tenth Schedule also known as Anti-defection Law.

- ▶ **Kihoto Hollohan versus Zachillu and Others, 1992:** SC said that **judicial review is applicable on a Speaker's decision** but cannot be available at a stage prior to making of a decision by Speaker/Chairman.
- ▶ **Keisham Meghachandra Singh vs. Hon'ble Speaker Manipur Legislative Assembly & Ors. Case, 2020:** SC held that **disqualification petitions under Tenth Schedule should be decided by Speakers** within three months.
- ▶ **2nd ARC Report titled 'Ethics in Governance' and various other expert committees** recommended that issue of disqualification of members on grounds of defection should be decided by President/ Governor on advice of Election Commission.



- ▶ **Kerala State Electricity Board:** SC held that Delegated legislation, including rules and regulations formed by State and Central authorities should not replace but supplement the parliamentary statute from which it draws power from.
- ▶ **Petition Vivek Narayan Sharma vs Union of India (Demonetisation case), 2016:** SC upheld the validity of delegated legislation by upholding the Centre's 2016 decision on demonetisation.
- ▶ **D. S. Garewal vs State of Punjab and Another:** Court held that **Article 312 of Constitution deals with powers of delegated legislation.**



- ▶ **Total prisoners:** About **5.73 lakh people** against a capacity of about 4.36 lakh (Prison statistics India, 2022).
- ▶ **Overcrowding:** **77.1%** of all prisoners being undertrials (Prison statistics India, 2022).
- ▶ **Understaffed: 30%.**
- ▶ **Low representation of women staff:** Only 13.77%.
- ▶ **Prison budget:** Only **0.6%** spent on **vocational/ educational training** of prisoners and **1% on their welfare activities.**

- ▶ **Parliamentary Committee on Home Affairs**
 - o Implement **Support to Poor Prisoners programme;**
 - o **Utilise** technology like **trackable bracelets** to keep **track of prisoners on bail.**
- ▶ **Mulla Committee, 1980 on Jail Reforms**
 - o Setting up **All India Service** called **Indian Prisons & Correctional Service;**
 - o **Press and public to be allowed** inside prisons.



Tribunal

- ▶ **Article 323A:** Empowered **Parliament to constitute administrative Tribunals** (both at central and state level) for adjudication of matters related to recruitment and conditions of service of public servants.
- ▶ **Article 323B:** Specified certain subjects (**taxation and land reforms**) for which **Parliament or state legislatures** may constitute tribunals by enacting a law.
 - **In 2010, SC clarified** that subject matters under **Article 323B** are not exclusive, and **legislatures are empowered** to create tribunals on any subject matter under their purview as specified in **7th Schedule**.

- ▶ **Standing Committee on Personnel, Public Grievances, Law and Justice, 2015:** Create National Tribunals Commission (NTC) for tribunal administration.



Judiciary

- ▶ **Article 20** (Right to protection against conviction of offenses), **Article 21** (Right to life and liberty), **Article 22** (Right to protection against arrest and detention in certain circumstance).
- ▶ **Pendency:** Over 85,000 cases in SC alone (National Judicial Data Grid).
- ▶ **Women in Judiciary: 13.4% and 9.3% of judges** are women in HCs and SC respectively (State of Judiciary Report 2023).
- ▶ **Judicial Appointment:** President shall make SC Judges appointments after consulting with CJI and other SC and HC judges as he considers necessary (**Article 124**).
- ▶ **Free legal aid (Article 39A):** Mandates State to ensure justice with equal opportunity, including free legal aid provision.

- ▶ **First Judges Case, 1981 or S P Gupta Case:** SC ruled that recommendation made by CJI to President can be refused for cogent reasons, thereby giving greater say to executive.
- ▶ **Second Judges Case, 1993 (Supreme Court Advocates on Record Association (SCARA) vs Union of India):** CJI only need to consult two senior-most judges over judicial appointments and transfers.
- ▶ **Third Judges Case, 1998:** CJI should consult with four senior-most SC judges to form his opinion on judicial appointments and transfers.



Inner Party Democracy

- ▶ **Committees like Dinesh Goswami Committee, Tarkunde Committee and Indrajit Gupta Committee:** Argued for more transparent working of political parties in country.
- ▶ **Draft Political Parties (Registration and Regulation of Affairs) Act, 2011:** To regulate constitution, functioning, funding, accounts and audit, and other affairs of political parties participating in elections.



Criminalization of Politics

- ▶ **Union of India v Association for Democratic Reforms, 2002:** SC stated that electors have a fundamental right to know the antecedents of candidates.
- ▶ **Peoples Union for Civil Liberties (PUCL) v Union of India, 2004:** SC declared **Section 33B of RPA 1951 as unconstitutional** and void. This section allowed candidates to furnish information only under Act.
- ▶ **Lily Thomas v Union of India, 2013:** SC ruled that Section 8(4) of RP, 1951 as unconstitutional.
 - **Earlier, Section 8(4) of RPA** allowed convicted Member of Parliament or Legislature of state to continue in their posts, provided they appealed against their conviction/ sentence in higher courts within three months of date of judgment by trial court.
- ▶ **Public Interest Foundation v. Union of India, 2018:** SC ordered political parties to publish criminal records of their candidates on their social media handles, and newspapers.



Municipal Elections

- ▶ **Composition of Municipalities (Article 243R):** All seats in a Municipality shall be filled by persons chosen **by direct election** from territorial constituencies in Municipal area.
- ▶ **Reservation of seats (Article 243T):** Seats are reserved for weaker sections, SC/ST, Women, and other groups as per respective municipal Acts
- ▶ **Duration of Municipalities (Article 243U):** **5 years** from date appointed for its first meeting.
- ▶ **State Election Commission (Article 243ZA):** Superintendence, direction and control of preparation of electoral rolls for, and conduct of, all elections to Municipalities shall be vested in SEC.



Internet Shutdown

- ▶ Suspension of telecom services (including internet shutdowns) is governed by **Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017**, notified under **Indian Telegraph Act, 1885**.
 - It provides for **temporary shutdown of telecom services** in a region on **grounds of public emergency** (up to 15 days at once).
- ▶ Temporary suspension orders are to be issued by **Union/State Home Secretary only**.
- ▶ **Anuradha Bhasin vs. Union of India, 2020:** SC ruled that internet freedom is part of Article 19(1)(a), with restrictions only permissible under Article 19(2). **Court had passed following directions**
 - ▶ Suspension can be **utilised for temporary duration only**.
 - ▶ Any order of suspending internet is **subject to judicial review**.
 - ▶ **Foundation for Media Professionals v. Union Territory of J&K, 2020:** SC recognized that rights to speech, health, education, and business must be balanced with national security concerns.
 - ▶ **Parliamentary Standing Committee:**
 - Putting in place **mechanism to decide merit of an internet shutdown**.
 - DoT should formulate policy to **selectively restrict OTT services use instead of banning internet as a whole**.



Censorship

- ▶ **IT Act, 2000 and IT Rules:** Regulate content on digital media like social media Intermediaries, Over the Top platforms etc.
- ▶ **Cable Television Networks Regulation Act, 1995:** Regulates broadcasting of programmes on television along with bodies like News Broadcasters Association and Indian Broadcasting Foundation.
- ▶ **Central Board of Film Certification:** Regulates the public exhibition of films.
- ▶ **Press Council of India:** Maintains and improves the standards of newspapers and news agencies.



Constitutionalization of Environmental Issues

- ▶ **Article 32:** SC can issue directions, orders or writs to protect fundamental rights (HCs can do same under Article 226).
- ▶ **Article 142:** SC can pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it.
- ▶ **Maneka Gandhi vs. Union of India, 1978:** Right to environment, free of danger of disease and infection is inherent in Article 21.
- ▶ **Rural Litigation and Entitlement Kendra vs. State, 1988:** Recognised the right to live in a healthy environment as part of Article 21 of the Constitution.
- ▶ **M.C. Mehta vs. Union of India, 1987:** Treated the right to live in pollution free environment as a part of Article 21.
- ▶ **Vellore Citizens Welfare Forum vs. Union of India, 1996:** Observed that Precautionary Principle and Polluter Pays Principle are essential features of Sustainable Development.

Temple Regulation

- ▶ **Article 25 (1) gives freedom of religion and 25 (2) talks about areas where State may intervene** and make laws or regulate religious institutions.
- ▶ **Article 26 provides for freedom to manage the religious affairs** of citizens and is subject to public order, morality and health.
- ▶ **Entry 28 of List III of Schedule VII empowers both Union and State Legislatures to make law on "Charities and charitable institutions, charitable and religious endowments and religious institutions".**

- ▶ **Seshammal & others versus State of Tamil Nadu, 1972:** SC held that appointment of an Archaka to a temple would be a secular function, and only the performance of religious service by those priests would be an integral part of religion.
- ▶ **Kerala's Padmanabhaswamy Temple Case, 2020:** SC granted erstwhile Travancore royal family the shebaitship rights (right to manage a temple) for properties belonging to Sri Padmanabhaswamy temple in Kerala.

Finances of Panchayati Raj Institutions

- ▶ **Article 243H:** Provides for **finance for Panchayats** by securing authorization from State Legislatures for grants-in-aid to Panchayats from Consolidated Fund of State.
 - It empowers **panchayats to impose, collect, and allocate taxes, duties, tolls, and fees.**
- ▶ **Article 243-I: Setting up a State Finance Commission every 5 years** to review financial position of Panchayats and make recommendations to improve their financial position.
- ▶ **Article 280(3) (bb):** Mandates **Central Finance Commission to recommend measures needed to augment Consolidated fund of state and supplement panchayat resources** (on basis of recommendations made by Finance Commission of State) to President.

HEARTIEST

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AIR

53



मोहन लाल

AIR



ANMOL RATHORE

AIR



NAUSHEEN

AIR



AISHWARYAM PRAJAPATI

WEEKLY FOCUS- POLITY AND GOVERNANCE

S. No.	Topic	Lean More
1.	Seventh Schedule of the Indian Constitution - Does it need a relook?	
2.	Financially Empowering Urban Local Bodies	
3.	Changing Dynamics of Fiscal Federalism in India	
4.	Constitutional Morality	
5.	Government Budgeting: What, Why and How?	
6.	Inter-State Water Governance From Conflict to Cooperation	
7.	Censorship in Media: A necessary evil?	
8.	India's Criminal Justice System: Reforming Institutions For Delivering Justice	
9.	Cooperatives: Prosperity through Cooperation	
10.	Sui Generis Indian Federalism: Evolving Dynamics and Emerging Concerns	

S. No.	Topic	Lean More
11.	Electoral Reform: An Approach to Effective Democracy	
12.	Constitutional Ethos: Quintessence of Indian Constitution	
13.	Constitutional Ethos: Democracy for Social and Economic Welfare	
14.	Constitutional Ethos II: Unity in Diversity - Secularism	
15.	Constitutional Ethos III: Unity in Diversity- Multilingualism	
16.	Technology Governance- Forging a New Era of Public Policy	
17.	Constitutional Ethos IV: Liberty and Freedom	
18.	Countering Corruption: India's Ongoing Battle	
19.	Redefining Governance: India's Path to Administrative Reforms	

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1
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Aditya Srivastava

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Pradhan**



Ruhani



**Srishti
Dabas**



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Rathore**



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**Aishwaryam
Prajapati**

39
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Kishore**



**Garima
Lohia**



**Uma
Harathi N**

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