



# Polity

Classroom Study Material

(May 2018 to February 2019)



# POLITY AND CONSTITUTION

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# 1. ISSUES RELATED TO CONSTITUTION

## 1.1. AADHAAR CONSTITUTIONALLY VALID

### Why in news?

A Constitution Bench of the Supreme Court, led by Chief Justice of India by a 4:1 majority upheld the validity of Aadhaar but with certain caveats.

### What is Aadhaar?

- 12 digit biometric-based individual identification number managed by **Unique Identification Authority of India (UIDAI) under Ministry of Communications/IT**. The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2017 establishes Unique Identification Authority of India (UIDAI), with following key functions –
  - Specifying demographic and biometric information to be collected during enrolment
  - Assigning Aadhaar numbers to individuals
  - Authenticating Aadhaar numbers
  - Specifying the usage of Aadhaar numbers for delivery of subsidies and services
- Proof of identity, proof of residence and now also financial address for its residents.
- Any Resident can get Aadhaar. However, it is not a proof of citizenship.
- **Information collected for enrolment in Aadhaar Database**
  - **Demographic information** such as Name, Date of Birth, Gender, Address, Parent/Guardian details, Contact details (phone, e-mail etc).
  - **Biometric Information** required: Photo, 10 Finger Prints, Iris.
- The Aadhaar number, the demographic and biometric information (called identity information) is together stored in the Central Identities Data Repository as mandated by the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2017.
- Expenditure for the nationwide Aadhaar exercise is incurred from the Consolidated Fund of India.

### Aadhaar: where's it required and where's it not

- Welfare schemes (PDS, LPG, MGNREGA etc.)
- I-T returns
- Linking to PAN card
- Banks accounts
- SIM cards

- Private companies
- School admissions
- NEET, UGC, CBSE

### Highlights of the Verdict

- **Constitutionality of Aadhaar:** Aadhaar scheme passed the **triple test** laid down in the **Puttaswamy (Privacy) judgment** to determine the reasonableness of the invasion of privacy (under Art 21) i.e.
  - **Existence of a law** - backed by the statute i.e. the Aadhaar Act, 2016.
  - **A legitimate state interest** – ensuring social benefit schemes to reach the deserving and poor.
  - **Test of proportionality** - balances benefits of Aadhaar and the potential threat it carries to the fundamental right to privacy.
- **No fear of Surveillance state:** Provisions of the Aadhaar Act “do not tend to create a surveillance state”.
  - Aadhaar collects minimal biometric data in the form of iris and fingerprints, and the Unique Identification Authority of India (UIDAI) — which oversees the Aadhaar enrolment exercise — does not collect purpose, location or details of the transaction.
- **Security of the biometric data:** UIDAI has mandated **only registered devices to conduct biometric-based authentication transactions**.
  - There is an **encrypted, unidirectional relationship** between the host application and the UIDAI. This rules out any possibility of the use of stored biometric, or the replay of biometrics captured from another source.
  - Further, as per the regulations, **authentication agencies are not allowed to store the biometrics captured for Aadhaar authentication**.
- **Linking of Aadhaar with Financial transactions:** The rules which made linking of bank accounts and all other financial instruments with Aadhaar mandatory, is declared unconstitutional.
- **Aadhaar Act as Money Bill:** Section 7 being the main provision of the Act, the Supreme Court has upheld the validity of the Aadhaar Act being passed as a Money Bill.
  - **Section 7 of the Aadhaar Act**, demands for Aadhaar based authentication to receive a subsidy, benefit or service etc. It

is very clearly declared in this provision that the expenditure incurred in respect of such a subsidy, **benefit or service would be from the Consolidated Fund of India.**

- On a similar issue, the court has **upheld the validity of Section 59** that also validates all Aadhaar enrolment done prior to the enactment of the Aadhaar Act, 2016. The court has said that since enrolment was voluntary in nature, **those who specifically refuse to give consent would be allowed to exit the Aadhaar scheme.**

**Sections Declared Unconstitutional by Supreme Court**

Section	Court's Observations & Directions
<b>Section 33(1) &amp; Section 33(2)</b>	<ul style="list-style-type: none"> <li>Violated the protection against self-incrimination as enshrined under Article 20(3) of the Constitution of India.</li> <li>Did not given an opportunity of hearing to the concerned individual whose information is sought to be released by the UIDAI pursuant to the Court's order. This is contrary to the principles of natural justice.</li> </ul>
<b>Section 47</b>	<ul style="list-style-type: none"> <li>Did not allow an individual citizen, whose rights have been violated under the Act, to initiate the criminal process. Only UIDAI was allowed.</li> <li>Any individual will now be allowed to file a complaint if he/she feels their data has been compromised.</li> </ul>
<b>Section 48</b>	<ul style="list-style-type: none"> <li>Permitted the central government to take over UIDAI in case of a 'public emergency'.</li> <li>Termed as vague &amp; arbitrary in absence of any holistic definition of 'public emergency'.</li> </ul>
<b>Section 57</b>	<ul style="list-style-type: none"> <li>Allowed an unrestricted extension of the Aadhaar platform to users who may be Government agencies or private sector operators.</li> <li>Gave the Act much wider scope than what may legitimately be considered as a Money Bill.</li> <li>Enabled the seeding of the Aadhaar number across service providers and thereby enabled the establishment of a surveillance state.</li> <li>Allowing corporate bodies and individuals to also seek authentication – only on the basis of a contract &amp; not a law - would impinge upon an individual's right to privacy.</li> </ul>
<b>Aadhaar Regulations</b>	<ul style="list-style-type: none"> <li><b>Regulation 26(c)</b> allowed UIDAI to store metadata relating to transactions. Struck down in present</li> </ul>

<ul style="list-style-type: none"> <li>form.</li> <li><b>Regulation 27</b> provided for archiving transaction data for five years. Struck down</li> <li>To ensure non tracking, the Court ordered <b>that Authentication logs should be deleted after six months, instead of the five years required.</b></li> </ul>
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**1.2. DEFINING MINORITIES IN INDIA**

**Why in news?**

The Supreme Court recently asked the National Commission for Minorities to take a decision on a plea seeking guidelines for defining the term 'minority' and for their identification State-wise.

**More on news**

- The PIL sought minority status for Hindus in Lakshadweep, Mizoram, Nagaland, Meghalaya, J&K, Arunachal Pradesh, Manipur and Punjab.
- It sought the following relief from SC
  - Declare that Section 2(c) of the National Commission for Minorities (NCM) Act 1992 and NCM notification granting minority status to 5 religious communities is void according to Articles 14, 15 and 21, 29 and 30 of the Constitution of India;
  - Direct the Government to define "Minorities" with the State being the unit of determination.

**About NCM**

- It was set up under the National Commission for Minorities Act, 1992.
- It is a **quasi-judicial body with powers of a civil court.**
- It consists of a Chairperson, a Vice Chairperson and five Members to be nominated by the Central Government –all should be from Minority communities.
- The Chairperson and every Member shall hold office for a **term of three years** from the date he assumes office.
- The central government presents its report to the parliament.

**Functions**

- evaluate the progress of the development of minorities under the Union and States;
- monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures;
- make recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments;
- look into specific complaints regarding deprivation

of rights and safeguards of the minorities and take up such matters with the appropriate authorities;

- cause studies to be undertaken into problems arising out of any discrimination against minorities and recommend measures for their removal;
- conduct studies, research and analysis on the issues relating to socio-economic and educational development of minorities;
- suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments;
- make periodical or special reports to the Central Government on any matter pertaining to minorities and in particular difficulties confronted by them; and
- any other matter which may be referred to it by the Central Government.

### Minorities in India

- The Constitution of India uses the word 'minority' in various articles viz. **Article 29, 30, 350 A and 350 B.**
  - Other constitutional provisions having a bearing on minority rights are: **Articles 46, 51A, 25-28.**
- It recognises minorities based on religion and language.
- But it **neither defines the term 'minority' nor delineates the criteria for determining a minority.**
- **As per sec 2(c) of the NCM Act 1992,** 'minority' means a community notified as such by the Central govt.
- Six religious communities, viz; Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains have been notified as minority communities by the Union Government.
  - The six notified minorities constitute about 19% population of the country.
- **States governments are also empowered to designate state minorities** and set up State Minority Commissions. For e.g. Jains were designated as minority by 11 states before they were nationally recognized in 2014.
- **Supreme court judgements: Supreme Court through its various judgements has tried to provide guidelines for defining minorities:**
  - **Kerala Education Bill case 1958:** It said minority should to be a group of people who are numerically a minority in a 'State as a whole' as distinguished from any particular area or region'.
  - **Bal Patil & others v UOI, 1999 and TMA Pai Foundation v State of Karnataka 2002:** It held that with regard to state law, the unit

to determine a religious or linguistic minority should be the state.

### 1.3. DOUBLE JEOPARDY

#### Why in news?

The Supreme Court has held that the bar of double jeopardy does not arise if an accused was discharged of a criminal offence, even before the commencement of trial, on the basis of an invalid sanction for prosecution.

#### Constitutional Provision

- **Article 20** grants protection against arbitrary and excessive punishment to an accused person, whether citizen or foreigner or legal person like a company or a corporation.
- Article 20 (2) of the Constitution mandates that a person **cannot be prosecuted or punished twice** for the same offence. This is called No double jeopardy.
- The protection against double jeopardy is available only in proceedings before a court of law or a judicial tribunal. In other words, it is not available in proceedings before departmental or administrative authorities as they are not of judicial nature.

### 1.4. NATIONAL SECURITY ACT

#### Why in news?

Recently, the Madhya Pradesh Government invoked the National Security Act (NSA) against three men accused of killing a cow.

#### About National Security Act, 1980

- The National Security Act was promulgated on September 23, 1980, **"to provide for preventive detention** in certain cases and for matters connected therewith".
- The **grounds for preventive detention** of a person include:
  - Acting in any manner prejudicial to the defence of India, the relations of India with foreign powers, or the security of India.
  - Regulating the continued presence of any foreigner in India or with a view to making arrangements for his expulsion from India
  - Acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do.

- A detenu may be held for up to **three months** and in certain circumstances **six months**, without any review.
- A **three person Advisory Board** made up of high court judges or persons qualified to be high court judges determines the legitimacy of any order made for longer than three months. If approved, a person may be held extra-judicially for **up to 12 months**. The term can be extended if the government finds fresh evidence.
- The state government needs to be intimated that a person has been detained under the NSA.
- It extends to the whole of India **except the State of Jammu and Kashmir**.

#### Protection against Preventive detention in the constitution

- **Article 22** grants protection to persons who are arrested or detained under a preventive detention law.
- This protection is available to both citizens as well as aliens and includes the following:
  - The **detention of a person cannot exceed three months unless an advisory board reports sufficient cause for extended detention**. The board is to consist of judges of a high court.
  - The grounds of detention should be communicated to the detenu. However, the facts considered to be against the public interest need not be disclosed.
  - The detenu should be afforded an opportunity to make a representation against the detention order.
- Article 22 also authorises the Parliament to prescribe
  - the circumstances and the classes of cases in which a person can be detained for more than three months under a preventive detention law without obtaining the opinion of an advisory board;
  - the **maximum period** for which a person can be detained in any classes of cases under a preventive detention law; and
  - the procedure to be followed by an advisory board in an inquiry.
- The Parliament has **exclusive authority** to make a law of preventive detention for reasons connected with **defence, foreign affairs and the security of India**.
- Both the Parliament as well as the state legislatures can concurrently make a law of preventive detention for reasons connected with the security of a state, the maintenance of public order and the maintenance of supplies and services essential to the community.

#### History of Preventive Detention laws in India

- **Pre-independence laws**- Bengal Regulation III of

1818, Defence of India Act 1915, Rowlatt Acts of 1919

#### • Post-independence laws-

- **Preventive Detention Act** (1950-1969)
- **Unlawful Activities (Prevention) Act** (1967)
- **Maintenance of Internal Security Act (MISA)** (1971-1978)
- **Conservation of Foreign exchange and Prevention of Smuggling Activities (COFEPOSA)** (1974)
- **National Security Act** (1980)- amended in 1984, 1985 and 1988

## 1.5. CONCURRENT LIST

### Why in news?

The CM of Telangana has pitched for **more autonomy to the states**, suggesting that the concurrent list be done away with.

### Why Concurrent list?

- The aim of the concurrent list was to **ensure uniformity** across the country where independently both centre and state can legislate. Thus, a model law with enough flexibility for states was originally conceived in the constitution.
- Also, few concurrent list subjects required **huge finances** needing both centre and state to contribute.

#### Sarkaria Commission Recommendation on Concurrent List (NOTE: useful for eliminating options)

- The residuary powers of taxation should continue to remain with the Parliament, while the other residuary powers should be placed in the Concurrent List.
- The Centre should consult the states before making a law on a subject of the Concurrent List.
- Ordinarily, the Union should occupy only that much field of a concurrent subject on which uniformity of policy and action is essential in the larger interest of the nation, leaving the rest and details for state action.

The Tamil Nadu government constituted the **PV Rajamannar Committee** to look into Centre-State relations. It spurred other states to voice their opposition to this new power relation born due to 42<sup>nd</sup> amendment act and Centre's encroachment on subjects that were historically under the state list.

### Seventh Schedule (Article 246)

The Constitution provides a scheme for demarcation of powers through three 'lists' in the seventh schedule.

- The **union list** details the subjects on which Parliament may make laws e.g. defence, foreign affairs, railways, banking, among others.

- The **state list** details those under the purview of state legislatures e.g. Public order, police, public health and sanitation; hospitals and dispensaries, betting and gambling etc.
- The **concurrent list** has subjects in which both Parliament and state legislatures have jurisdiction e.g. Education including technical education, medical education and universities, population control and family planning, criminal law, prevention of cruelty to animals, protection of wildlife and animals, forests etc.
  - The provision of concurrent list is a feature **borrowed from the Australian constitution**.
- The Constitution also **provides federal supremacy to Parliament on concurrent list items** i.e. in case of a conflict; a central law will override a state law.
  - But there is an exception. If the state law has been reserved for the consideration of the President and has received his assent, then the state law prevails in the state. But it would still be competent for the Parliament to override such a law by subsequently making a law on the same matter.
- Since 1950, the Seventh Schedule of the Constitution has seen a number of amendments. **The Union List and Concurrent List have grown** while subjects under the **State List have gradually reduced**.
  - The **42nd Amendment Act** implemented in 1976, restructured the Seventh Schedule ensuring that State List subjects like education, forest, protection of wild animals and birds, administration of justice, and weights and measurements were transferred to the Concurrent List.

## 1.6. OFFICE OF PROFIT

### Why in news?

President dismissed a petition to disqualify 27 Aam Aadmi Party (AAP) members of the Delhi legislative assembly for allegedly holding offices of profit.

### What is Office of Profit?

- **Articles 102(1) and 191 (1) mention disqualifications** on the basis of Office of Profit in the Parliament and state legislature respectively.
- But it is **neither defined in the constitution nor under Representation of People's Act**.
- Supreme Court in **Pradyut Bordoloi vs Swapan Roy (2001)**, the Supreme Court outlined the

following questions for the test for office of Profit:

- Whether the government makes the appointment;
  - Whether the government has the right to remove or dismiss the holder;
  - Whether the government pays the remuneration;
  - What are the functions of the holder and does he perform them for the government; and
  - Does the government exercise any control over the performance of those functions
- Further in *Jaya Bacchan v. Union of India* case SC defined it as “an office which is capable of yielding a profit or pecuniary gain.” thus it is not the actual ‘receipt’ of profit but the ‘potential’ for profit that is the deciding factor in an ‘office of profit’ case.
  - Provisions of Articles 102 and 191 protect a legislator occupying a government position if the office in question has been made immune to disqualification by law.
  - Parliament has also enacted the **Parliament (Prevention of Disqualification) Act, 1959**, which has been amended several times to expand the exempted list of office of profit.
  - There is no bar on how many offices can be exempted from the purview of the law.

### Joint Committee on offices of profit:

- It consists of **15 members drawn from both the houses of Parliament** with ten members from Lok Sabha and five members from Rajya Sabha.
- It examines the composition and character of the Committees appointed by the Central and State Governments and recommends what offices should or should not disqualify a person for being, a member of either House of Parliament.
- It has **defined Office of Profit** as:
  - Whether the holder draws any remuneration, like sitting fee, honorarium, salary, etc. other than Compensatory allowance.
  - Whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotments of lands, issue of licences, etc., or gives powers of appointment, grant of scholarship, etc.
  - Whether the body in which an office is held wields influence or power by way of patronage.

- Under article 102 (1) a person shall be disqualified for being chosen as and for being a member of the



Parliament if:

- he **holds any office of profit under the Union or state government** (except that of a minister or any other office exempted by state legislature),
- he is of **unsound mind** and stands so declared by a court,
- he is **an undischarged insolvent**,
- he is **not a citizen of India** or has voluntarily acquired the citizenship of a foreign state or is under any acknowledgement of allegiance to a foreign state, and
- if he is so **disqualified under any law made by Parliament**.
- **Article 191 (1)** provides similar disqualifications for the members of the state legislative assemblies and councils.
- According to Article 192, on the question whether a member has become subject to any of the above disqualifications, the **governor's decision is final**. However, he should obtain the opinion of the Election Commission and act accordingly.
- The **recommendations of ECI are binding** on the President or Governor regarding the issues related to article 102 (1) & article 191 (1).
- The Parliament has prescribed a number of additional disqualifications in the **Representation of People Act (1951)**. These are similar to those for Parliament. These are mentioned here:
  - He must not have been **found guilty of certain election offences or corrupt practices in the elections**.
  - He must not have been **convicted for any offence resulting in imprisonment for two or more years**. But, the **detention of a person under a preventive detention law is not a disqualification**.
  - He must not have **failed to lodge an account of his election expenses within the time**.
  - He must not have **any interest in government contracts, works or services**.
  - He must not be a **director or managing agent nor hold an office of profit in a corporation in which the government has at least 25 per cent share**.
  - He must not have been **dismissed from government service for corruption or disloyalty to the state**.
  - He must not have been **convicted for promoting enmity between different groups or for the offence of bribery**.
  - He must not have been **punished for preaching and practicing social crimes such as untouchability, dowry and sati**.

#### Disqualification on Ground of Defection

- The Constitution also lays down that a person shall be disqualified for being a member of either House of state legislature (Article 191(2)) and Parliament (Article 102 (2)) if he is so disqualified on the ground of defection under the provisions of the Tenth Schedule.
- The question of disqualification under the Tenth

Schedule is decided by the Presiding officer of the house (Speaker in case of Lok Sabha and Chairman in case of Rajya Sabha).

- In 1992, the Supreme Court ruled that the decision of Chairman/Speaker in this regard is subject to judicial review.

## 1.7. BREACH OF PRIVILEGE

### Why in news?

- Claiming they had misled Parliament on the Rafale fighter jet deal issue, a breach of privilege motion was moved against Prime Minister and Defence Minister.
- A claim of 'breach of privilege' was raised against chairman of the Parliamentary Standing Committee on finance, for "lowering the dignity and ethics of the Finance Committee" by tweeting about the committee's deliberations.

### Concept of privileges and types of privileges

- The concept of privileges **emerged from the British House of Commons** when a nascent British Parliament started to protect its sovereignty from excesses of the monarch.
- The Constitution (under **Art. 105** for Parliament, its members & committees / **Art. 194** for State Legislature, its members & committees) confers certain privileges on legislative institutions and their members.
- Currently, **there is no law that codifies all the privileges** of the legislators in India.
- Privileges are based on five sources: i) Constitutional provisions ii) Various laws of parliament (iii) Rules of both the houses iv) Parliamentary conventions v) Judicial interpretations
- Whenever any of these rights and immunities is disregarded, the offence is called a **breach of privilege** and is **punishable under law of Parliament**. However, there are **no objective guidelines** on what constitutes breach of privilege and what punishment it entails.

#### Types of Privileges (Article 105)

##### Collective

- Exclude strangers from proceedings. Hold a secret sitting of the legislature.
- Freedom of press to publish true reports of Parliamentary proceedings. But this does not apply in case of secret sittings.
- Only Parliament can make rules to regulate its own proceedings.
- There is a bar on court from making inquiry into proceedings of the house (speeches, votes etc.).

##### Individual

- No arrest during session and 40 days before and 40

days after the session. Protection available only in civil cases and not in criminal cases

- Not liable in court for any speech in parliament
- Exempted from jury service when the house is in session.

**Committee on Privileges**

- **Standing committee** constituted in each house of the Parliament/state legislature.
- Consists of 15 members in Lok Sabha (LS) and 10 members in Rajya Sabha (RS) to be **nominated by** the Speaker in LS and Chairman in RS.
- Its function is **to investigate the cases of breach of privilege** and recommend appropriate action to the Speaker/Chairperson.

**Instances of breach of privileges**

- In 1978, Indira Gandhi faced a motion for breach of privilege on the basis of observations of excesses during emergency (**Justice Shah Committee report**). Subsequently, she was expelled from the house.
- Expulsion of Subramanyam Swami from Rajya Sabha in 1976 on charges of bringing disrepute to the Parliament.
- Tamil Nadu assembly punished the journalists of The Hindu for criticizing the CM in 2003.
- Karnataka assembly passed a resolution imposing imprisonment and fines on scribes in 2017.

Following **procedure** is followed in privilege cases (Privilege motion):

- A notice is moved in the form of a motion by any member of either house against those being held guilty of breach of privilege.
- The Speaker/ Rajya Sabha chairperson is the first level of scrutiny of a privilege motion. They can take a decision themselves or refer it to the privileges committee of parliament. Privilege committee in Parliament as well as in state legislatures decides upon such cases.
- An inquiry is conducted by the committee and based on findings a recommendation is made to the legislature.
- A debate can be initiated on the report in the House and based on the discussion, the Speaker can order the punishment as defined by the privileges committee.

## 1.8. PRIVATE MEMBERS' BILLS

### Why in News?

Various private members bills were introduced in the Parliament.

**Private Member:** Any MP who is not a Minister is referred to as a private member. Bills introduced by Ministers are referred to as government bills. They are backed by the government and reflect its

legislative agenda. Private member's bills are piloted by non-Minister MPs.

### Introduction in the House

- The admissibility of a private member's Bill is decided by the Presiding Officer. The Member must give at least a month's notice before the Bill can be listed for introduction; the House secretariat examines it for compliance with constitutional provisions and rules on legislation before listing.
- Number of private member's Bills is capped to three per session.
- While government Bills can be introduced and discussed on any day, private member's Bills can be introduced and discussed only on Fridays.
- The last time a private member's Bill was passed by both Houses was in 1970. This was the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Bill, 1968. Fourteen private member's Bills — five of which were introduced in Rajya Sabha — have become law so far.

**Committee on Private Members' Bills and Resolutions:** This committee **classifies bills and allocates time** for the discussion on bills and resolutions introduced by private members (other than ministers). This is a special committee of the Lok Sabha and consists of 15 members including the Deputy Speaker as its chairman. The **Rajya Sabha does not have any such committee**. The same function in the Rajya Sabha is performed by the Business Advisory Committee of that House.

## 1.9. GOVERNOR

### 1.9.1. GOVERNOR PARDON POWER

#### Why in news?

Governor's pardoning power was questioned in releasing of seven convicts sentenced to life imprisonment in the Rajiv Gandhi assassination case.

#### Comparing Pardoning Powers of President and Governor

President (Article 72)	Governor (Article 161)
He can pardon, reprieve, respite, remit, suspend or commute the punishment or sentence of any person convicted of any offence against a Central law.	He can pardon, reprieve, respite, remit, suspend or commute the punishment or sentence of any person convicted of any offence against a state law.
He can pardon, reprieve, respite, remit, suspend or	He cannot pardon a death sentence. Even if a state

commute a death sentence. He is the <b>only authority to pardon a death sentence.</b>	law prescribes for death sentence, the power to grant pardon lies with the President and not the governor. But the governor can suspend, remit or commute a death sentence.
He can grant pardon, reprieve, respite, suspension, remission or commutation in respect to punishment or sentence by a court-martial (military court).	He does not possess any such power.

### 1.9.2. ROLE OF GOVERNOR IN HUNG ASSEMBLY

#### Why in news?

- The role of governor came under question in recent Karnataka legislative assembly elections.
- Jammu and Kashmir Governor recently dissolved the State Assembly (which has been in suspended animation) when two political parties separately staked claim to form a government.

#### Constitutional provisions

- **Article 164(1)** provides for the appointment of chief minister by governor.
  - Supreme Court clarified that there is no qualification mentioned in article 164(1) and reading it with collective responsibility in 164(2), the only condition chief ministerial candidate needs to satisfy is that he/she should be commanding majority in the house.
- **Article 172** says that every Legislative Assembly of every State, unless sooner dissolved, shall continue for five years.
- **Article 174 (2) (b)** of the Indian Constitution merely states that the Governor may, from time to time, dissolve the Legislative Assembly.
- **Article 356 (“President’s rule”)**: In case of failure of constitutional machinery in State the President, on receipt of report from the Governor of the State or otherwise, may assume to himself the functions of the Government of the State declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament
- **With Respect to J&K Constitution:** The powers under **Section 92** (failure of

constitutional machinery) and **Section 52** (provides for dissolution of assembly) were invoked for dissolving the Assembly.

#### Views of Supreme court and other commissions

- **Supreme Court Judgements:**
  - **SR Bommai case:**
    - ✓ discretion of Governor **does not apply to hung assembly,**
    - ✓ laid emphasis on floor test in the house within 48 hours (although it can be extended to 15 days) so that legislature should decide the matter and Governor’s discretion should merely be a triggering point.
  - **Rameshwar Prasad case (2006)**
    - ✓ A Governor cannot shut out **post-poll alliances** altogether as one of the ways in which a popular government may be formed.
    - ✓ **Unsubstantiated claims of horse-trading** or corruption in efforts at government formation cannot be cited as reasons to dissolve the Assembly.

#### Sarkaria Commission

- The **state assembly should not be dissolved unless the proclamation is approved by the parliament.**
- The party or combination of parties with widest support in the Legislative Assembly should be called upon to form the Government.
- If there is a pre-poll alliance or coalition, it should be treated as one political party and if such coalition obtains a majority, the leader of such coalition shall be called by the Governor to form the Government.
- **In case no party or pre-poll coalition has a clear majority, the Governor should select the CM in the order of preference indicated below:**
  - The group of parties which had pre-poll alliance commanding the largest number.
  - The largest single party staking a claim to form the government with the support of others.
  - A post-electoral coalition with all partners joining the government.
  - A post-electoral alliance with some parties joining the government and the remaining supporting from outside.

**M M Punchhi Commission** elaborated that the governor should follow “**constitutional conventions**” in a case of a hung Assembly. Further, it suggested a provision of ‘**Localized Emergency**’ by which the centre government can tackle issue at town/district level **without dissolving the state legislative assembly**

### 1.10. NATIONAL REGISTER OF CITIZENS (NRC)

#### Why in news?

Assam is in process to update its National Register of Citizens (NRC).

### Brief background

- To tackle the illegal immigration issue just after the independence, NRC was first prepared after the Census of 1951.
- The Citizenship Act of 1955 was amended after the Assam Accord for **all Indian-origin people who came from Bangladesh before January 1, 1966 to be deemed as citizens. Those who came between January 1, 1966 and March 25, 1971 were eligible for citizenship after registering and living in the State for 10 years while those entering after March 25, 1971, were to be deported.** However, nothing much happened over the decades.
- In 2014, the Supreme Court asked the state government **to update the 1951 NRC in a time-bound manner.** Present exercise is being conducted under the supervision of the Supreme Court.

#### Assam Accord 1985

- It is a Memorandum of Settlement (MoS) signed between representatives of the Government of India and the leaders of the Assam Movement.
- All those foreigners who had entered Assam between 1951 and 1961 were to be given full citizenship, including the right to vote;
  - Those who had done so after 1971 were to be deported,
  - Also, the entrants between 1961 and 1971 were to be denied voting rights for ten years but would enjoy all other rights of citizenship.

#### What is NRC?

- It is a list of all bona fide Indian citizens of Assam, the only state with such a document. Other states such as **Tripura are also demanding for NRC.**
- The NRC is being updated as per **the provisions of The Citizenship Act, 1955 and The Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.**
- It will include persons whose names appear in any of the electoral rolls upto the midnight of 24<sup>th</sup> March, 1971 or National Register of Citizens, 1951 and their descendants.
- The process of verification involved house-to-house field verification, determination of authenticity of documents, family tree investigations in order to rule out bogus claims of parenthood, and linkages and **separate hearings for married women.**

#### What next for Excluded people?

- The people have a graded appeals process in the order - NRC Seva Kendras, District magistrates, The Foreigners' Tribunals, The Guwahati High Court, The Supreme Court.

## 1.11. SPORTS BETTING IN INDIA

### Why in news?

The Law Commission of India submitted a report to the government, saying that since it is impossible to stop illegal gambling, the only viable option left is to “regulate” gambling in sports.

### Betting/Gambling in India

- According to **Entry 40 of union list** of the Seventh Schedule of the Constitution, the Parliament has the power to legislate on ‘Lotteries organized by the Government of India as well as the Government of any State’.
- The power of the State governments to make laws on gambling can be traced to **Entry 34 of the state list.** Thus, the States have exclusive power to make laws on this subject including power to prohibit or regulate gambling etc. in their respective territorial jurisdiction.
- The Public Gambling Act, 1867, prohibits any games of chance and probability except lotteries. The Act prohibits owning, keeping and being found in a common gaming house, however, the Act excludes "games of skill" from its ambit.
- **The Information Technology Act 2000** prohibits online gambling and the punishment for such activities is much more serious than for offline gambling operations.
- The Lodha committee recommended the legalisation of betting, except for those covered by the BCCI and IPL regulations.

## 1.12. DEPARTMENT OF OFFICIAL LANGUAGE

### Why in news?

The first review meeting of the **Department of Official Language (an independent Department of the Ministry of Home Affairs)** took place to discuss the issues related to implementation of Hindi language in official work.

### Related news

- **Abu Dhabi** has recently included Hindi as the third official language used in courts alongside Arabic and English.
- It is aimed at helping Hindi Speakers to learn about litigation procedures, their right and duties without a language barrier, in addition to facilitating registration procedures via unified forms.
- According to official figures, UAE has around 2.6 million Indians constituting 30% of population and is the largest expatriate community in the country.
- Other than UAE, **Fiji also has Hindi as official language.**

### Constitutional Provisions

- **Part XVII of the Constitution** deals with the official language in Articles 343 to 351. Its provisions are divided into four heads—Language of the Union, Regional languages, Language of the judiciary and texts of laws and Special directives.
- Hindi written in Devanagari script is to be the official language of the Union. But, the form of numerals to be used for the official purposes of the Union has to be the international form of Indian numerals and not the Devanagari form of numerals.

### Articles Related to Official Language and Special Directives for Promotion of Languages

- **Article 343:** Official language of the Union
- **Article 344:** Commission and Committee of Parliament on official language
- **Article 350A:** Facilities for instruction in mother-tongue at primary stage
- **Article 350B:** Special Officer for linguistic minorities
- **Article 351:** Directive for development of the Hindi language

### Related Information

- The **Official Language Act (1963)** provided for the setting up of a **Committee of Parliament**

on **Official Language** to review the progress made in the use of Hindi for the official purpose of the Union. Accordingly, this Committee was set up in 1976. This Committee comprises of 30 members of Parliament, 20 from Lok Sabha and 10 from Rajya Sabha.

- The Chairman of the Committee is elected by the members of the Committee. As a convention, the Union Home Minister has been elected as Chairman of the Committee from time to time.
- **Central Hindi Committee (Kendriya Hindi Samiti)**
  - It was established in 1967 with an aim to facilitate and promote the use of Hindi in central ministries and departments.
  - It is the apex committee to issue directions w.r.t Policy decisions on Official language.
  - It is chaired by the Prime Minister. Apart from PM, it includes 8 Union Ministers (Union Home Minister as Vice Chairman), 6 Chief Ministers, 4 members of Parliament and 10 experts of Hindi and other Indian Languages. Secretary to the Department of Official Language is also a member and acts as the member secretary.

# फाउंडेशन कोर्स

## सामान्य अध्ययन

### प्रारंभिक एवं मुख्य परीक्षा 2020

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- 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 ओरिएंटेड अप्रोच
- नियमित क्लास टेस्ट एवं व्यक्तिगत मूल्यांकन

- सीसैट कक्षाएं
- PT 365 कक्षाएं
- MAINS 365 कक्षाएं
- PT टेस्ट सीरीज
- मुख्य परीक्षा टेस्ट सीरीज
- निबंध टेस्ट सीरीज
- सीसैट टेस्ट सीरीज
- निबंध लेखन - शैली की कक्षाएं
- करेंट अफेयर्स मैगजीन

DELHI	JAIPUR	LUCKNOW	Batches also at:
23 Apr 9 AM	22 May	15 May	AHMEDABAD

## 2. ISSUES RELATED TO FUNCTIONING OF PARLIAMENT/STATE GOVERNMENT TO LEGISLATURE/LOCAL GOVERNMENT

### 2.1. RAJYA SABHA

#### Why in news?

Rajya Sabha Chairman recently presented a “report to the people”, highlighting the below-par performance of the Upper House and need to hold legislatures accountable.

#### Related information

Special Powers of Rajya Sabha that are not enjoyed by the Lok Sabha:

- It can authorise the Parliament to make a law on a subject enumerated in the State List (**Article 249**).
- It can authorise the Parliament to create new All-India Services common to both the Centre and states (**Article 312**).

#### Highlights of report

- Since June 2014, the Rajya Sabha has held 18 sessions and 329 sittings and **passed 154 Bills** — which comes to **less than one Bill in two sittings**.
- The political tussle between the government and opposition and lack of consensus on major issues has led to stalling of its functioning, adjournments etc.

#### Related news

- A two-member committee (**Agnihotri committee**) has been appointed to make recommendations for revising the rules of the Upper House.
  - **Article 118(1)** of the Constitution gives the two Houses of Parliament the power to make rules to regulate their functioning.
  - Thus, both houses have their own rules of procedure that govern various functions of the house including meetings, summons to members, oaths, sitting of council, election of deputy chairman, arrangement of business, etc.
- In exercise of the powers conferred by Article 80 of the Constitution of India, and on the advice of the Prime Minister, the President of India nominated four members to the Rajya Sabha.
  - **Constitutional Provision:** Article 80(1)(a) read with Article 80(3) of the Constitution of India provides that the President can nominate to Rajya Sabha, 12 persons having special knowledge, or practical experience in respect of literature, science, art and social service.
  - **Lok Sabha Nominations:** Under Article 331, the President can nominate two members from the Anglo-Indian community if the community

is not adequately represented in the Lok Sabha. Originally, this provision was to operate till 1960 but has been extended till 2020 by the 95th Amendment Act, 2009.

### 2.2. DEPUTY CHAIRPERSON OF RAJYA SABHA

#### Why in news?

Harivansh Narayan Singh was elected new Rajya Sabha deputy chairman.

**Deputy Chairman of Rajya Sabha: Article 89** of the Constitution provides for the office of Chairman and the Deputy Chairman of the council of States (Rajya Sabha).

- The Deputy Chairman is elected by the Rajya Sabha itself from amongst its members. Whenever the office of the Deputy Chairman falls vacant, the Rajya Sabha elects another member to fill the vacancy.
- The Deputy Chairman vacates his office in any of the following three cases:
  - if he ceases to be a member of the Rajya Sabha;
  - if he resigns by writing to the Chairman; and
  - if he is removed by a resolution passed by a majority of all the members of the Rajya Sabha. Such a resolution can be moved only after giving 14 days’ advance notice.
- The Deputy Chairman performs the duties of the Chairman’s office when it is vacant or when the Vice-President acts as President or discharges the functions of the President. He also acts as the Chairman when the latter is absent from the sitting of the House. In both the cases, he has all the powers of the Chairman.
- **The Deputy Chairman is not subordinate to the Chairman.** He is directly responsible to the Rajya Sabha.
- Like the Chairman, the Deputy Chairman, while presiding over the House, cannot vote in the first instance; he can only exercise a casting vote in the case of a tie. Further, when a resolution for the removal of the Deputy Chairman is under consideration of the House, he cannot preside over a sitting of the House, though he may be present.

- When the Chairman presides over the House, the Deputy Chairman is like any other ordinary member of the House. He can speak in the House, participate in its proceedings and vote on any question before the House.
- Like the Chairman, the Deputy Chairman is also entitled to a regular salary and allowance. They are **fixed by Parliament** and are charged on the Consolidated Fund of India.

## 2.3. LOK SABHA

### 2.3.1. ETHICS COMMITTEE

#### Why in news?

L K Advani has been re-nominated as the chairman of the Ethics Committee of the Lok Sabha by the Speaker.

#### Ethics Committee

- This committee was constituted in Rajya Sabha in 1997 and in Lok Sabha in 2000. It enforces the code of conduct of members of Parliament. It examines the cases of misconduct and recommends appropriate action. Thus, it is engaged in maintaining discipline and decorum in Parliament.
- It can also take **suo-moto investigation**.
- The committee consists of not more than 15 members in Lok Sabha and 10 members in Rajya Sabha.
- The Chairperson of the committee will be nominated by the Presiding Officer of the House from among the members of the committee.

### 2.3.2. NO-CONFIDENCE MOTION IN LOK SABHA

#### Why in news?

Lok Sabha Speaker recently accepted the no-confidence motion moved by the Opposition parties against the government.

**No-Confidence Motion: Article 75** of the Constitution says that the council of ministers shall be collectively responsible to the Lok Sabha. It means that the Lok Sabha can remove the ministry from office by passing a no-confidence motion.

**Other details: Rule 198 of the Rules of Procedure and conduct of Lok Sabha** specifies the procedure for moving a no-confidence motion.

- A no-confidence motion can be moved by any member of the House. It can be moved only in the Lok Sabha and not Rajya Sabha.
- The member has to give a written notice of the motion before 10 AM which will be read

out by the Speaker in the House. A minimum of 50 members have to accept the motion and accordingly, the Speaker will announce the date for discussion for the motion.

- The allotted date has to be within 10 days from the day the motion is accepted. Otherwise, the motion fails and the member who moved the motion will be informed about it.
- It need not state the reasons for its adoption in the Lok Sabha.
- It can be moved against the entire council of ministers only.
- If it is passed in the Lok Sabha, the council of ministers must resign from office.

## 2.4. STATE LEGISLATURE

### 2.4.1. FORMATION OF LEGISLATIVE COUNCIL

#### Why in news?

The Odisha Assembly passed a resolution for establishing Legislative Council, or Vidhan Parishad.

#### The Legislative Council (LC)- Procedure for Creation/Abolition of LC

- The Constitution provides for the abolition or creation of legislative councils in states under **Article 169**. Accordingly, the Parliament can abolish a legislative council (where it already exists) or create it (where it does not exist), if the legislative assembly of the concerned state passes a resolution to that effect.
- Such a specific resolution must be passed by the **state assembly (LA)** by a **special majority, that is, a majority of the total membership of the assembly and a majority of not less than two-thirds of the members of the assembly present and voting**.
- This Act of Parliament is not to be deemed as an amendment of the Constitution for the purposes of Article 368 and is passed like an ordinary piece of legislation (i.e. by simple majority).

**States with Legislative Council:** Currently, seven states have Legislative Councils. These are Andhra Pradesh, Telangana, Uttar Pradesh, Bihar, Maharashtra, Karnataka and Jammu and Kashmir.

#### Powers of LC vis-a-vis Rajya Sabha

- The Rajya Sabha has equal powers with the Lok Sabha in all spheres except financial matters and with regard to the control over the Government. On the other hand, the

**council is subordinate to the assembly** in all respects. Thus, the predominance of the assembly over the council is fully established.

- The final power of passing an ordinary bill lies with the assembly. At the most, the council can detain or delay the bill for the period of four months—three months in the first instance and one month in the second instance. In other words, the **council is not a revising body like the Rajya Sabha**; it is only a dilatory chamber or an advisory body.
- When an ordinary bill, which has originated in the council and was sent to the assembly, is rejected by the assembly, the bill ends and becomes dead. This is not the same for Rajya Sabha.
- The council has no effective say in the ratification of a constitutional amendment bill. In this respect also, the will of the assembly prevails over that of the council. In similar case, Rajya Sabha has equal powers to Lok Sabha.
- Finally, the very existence of the council depends on the **will of the assembly**. The council can be abolished by the Parliament on the recommendation of the assembly. However, Rajya Sabha does not depend upon the will of Lok Sabha for its existence.

#### 2.4.2. STRENGTH OF LEGISLATIVE ASSEMBLIES

##### Why in news?

- The Union home ministry has taken up a proposal to increase the strength of the Andhra Pradesh and Telangana assemblies.
- There has been proposal to increase the Assembly seats in Sikkim from 32 to 40.

##### Constitutional Provision

- **Article 170** provides for the composition of Legislative Assemblies. To increase the composition of legislative assembly, the Parliament will have to amend Article 170 of the Constitution.
  - The legislative assembly consists of representatives directly elected by the people on the basis of universal adult franchise. Its maximum strength is fixed at 500 and minimum strength at 60.
  - It means that its strength varies from 60 to 500 depending on the population size of the state.
  - However, in case of Arunachal Pradesh, Sikkim and Goa, the minimum number is

fixed at 30 and in case of Mizoram and Nagaland, it is 40 and 46 respectively.

- Further, some members of the legislative assemblies in Sikkim and Nagaland are also elected indirectly.
- The governor can nominate **one member from the Anglo-Indian community**, if the community is not adequately represented in the assembly.
- The **42nd Amendment Act** of 1976 had frozen total number of seats in the assembly of each state and the division of such state into territorial constituencies till the year 2000 at the 1971 level. This ban on readjustment has been extended for up to year 2026 by the **84<sup>th</sup> Amendment Act** of 2001 with the same objective of encouraging population limiting measures.
- The 84th Amendment Act of 2001 also empowered the government to undertake readjustment and rationalisation of territorial constituencies in a state on the basis of the population figures of 1991 census. Later, the 87th Amendment Act of 2003 provided for the delimitation of constituencies on the basis of 2001 census and not 1991 census. However, this can be done without altering the total number of seats in the assembly of each state.
- Thus, under the current provision, such an exercise can be undertaken only after the Census 2021 gets published in 2026. The Representation of People Act too will have to be tweaked to legitimize alteration in the size of the assemblies.

## 2.5. LOCAL GOVERNANCE

### 2.5.1. EDUCATION AS A CRITERIA FOR LOCAL ELECTIONS

##### Why in News?

Rajasthan Government has **scrapped education criteria** for Panchayati Raj elections.

##### Background

- Under Rajasthan **Panchayati Raj (Second Amendment) Act, 2015** it was made mandatory for people contesting **zila parishad, panchayat samiti and municipal elections** to have passed **Class 10**.
- SC in its judgement had held that **the Right to Contest** is neither fundamental rights, nor merely statutory rights, but are Constitutional Rights. Further, **the Right to Contest can be regulated and curtailed** through laws passed by the appropriate legislature.



### Panchayati Raj Elections

- 73<sup>rd</sup> Amendment Act provided for mandatory constitution of Panchayati Raj Institution as third tier of government at local level.
- Under **Article 243 (K) (4)** of Indian Constitution State Government by law can lay down the qualification for elections to local bodies.
- **Article 243 (O)** bans the interference of courts in electoral matters. If there is any dispute in the Panchayat Elections, courts have no jurisdiction over them.
- Panchayat Election can be questioned in the form of an election petition presented to an authority which the state legislature can by law prescribe.
- Haryana Government had passed the **Haryana Panchayati Raj (Amendment) Act, 2015** requiring minimum qualification for those contesting in panchayat election.
- States like Assam and Uttarakhand have also brought in legislations to make minimum education criteria for contesting local polls.

### 2.5.2. SABKI YOJANA, SABKA VIKAS

#### Why in news?

Recently, the central government launched a campaign, Sabki Yojana, Sabka Vikas on October 2, 2018.

#### About Sabki Yojana Sabka Vikas campaign

- The campaign will involve people at the grassroots while preparing structured **gram panchayat development plans**.

- It will also involve **thorough audit** of the works done in the last few years.
- Under the campaign, which will conclude in December'18, gram panchayats will have to **publicly display all sources of funds** collected and their annual spending, along with future development initiatives.
- This would help in making the exercise of formulating Gram panchayat development plans more structured which has been largely unorganized till now.

#### About Gram Panchayat Development Plan (GPDP):

- It is an **annual plan of each panchayat** where the villagers would decide where the money should be spent.
- The Gram Panchayat Development Plan aims to strengthen the role of 31 lakh elected Panchayat leaders and 2.5 crore SHG Women under DAY-NRLM in effective gram sabha.
- Scope of GPDP:
  - **Human Development:** Sex ratio, IMR, MMR, malnutrition, literacy etc.
  - **Status of inaccessible communities:** Marginal and deprived sections (SC, STs, Child, women etc.) and effectiveness of existing schemes.
  - **Civic services:** Sanitation, drinking water, internet connectivity etc.
  - **Economic Development:** Agriculture and irrigation, animal husbandry etc.
  - **Disaster vulnerability assessment**

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## 3. CENTRE-STATE RELATION

### 3.1. THE 15TH FINANCE COMMISSION

#### Why in news?

The Southern states are protesting against the Term of Reference of the 15th Finance Commission (FC-15).

#### About Finance Commission

- **Constitutional Provisions related to FC:** Article 280 of the Constitution of India provides for a Finance Commission as a quasi-judicial body. It is constituted by the president of India every fifth year or at such earlier time as he considers necessary.
- **Composition:** The Finance Commission consists of a chairman and four other members to be appointed by the president. **Finance Commission Act, 1951** has specified the qualifications of the chairman and members of the commission. The chairman should be a person having experience in public affairs and the four other members should be selected from amongst the following:
  - A judge of high court or one qualified to be appointed as one.
  - A person who has specialised knowledge of finance and accounts of the government.
  - A person who has wide experience in financial matters and in administration.
  - A person who has special knowledge of economics.
- **Functions of FC:** The Finance Commission is required to make recommendations to the President of India on the following matters:
  - The distribution of the **net proceeds of taxes** to be shared between the Centre and the states, and the allocation between the states of the respective shares of such proceeds.
  - The principles that should govern the **grants-in-aid** to the states by the Centre (i.e., out of the consolidated fund of India).
  - The measures needed to **augment the consolidated fund of a state** to supplement the resources of the panchayats and the municipalities in the state on the basis of the recommendations made by the state finance commission.

- **Any other matter** referred to it by the president in the interests of sound finance.

- **Advisory Role of FC:** The recommendations made by the FC are only of **advisory nature** and hence, not binding on the government. It is up to the Union government to implement its recommendations on granting money to the states.

#### Composition of FC-15

- The FC-15 was constituted on November 27, 2017 and is headed by former Revenue Secretary and former Rajya Sabha MP **N.K. Singh**. The panel also includes Shaktikanta Das and Anoop Singh. Dr. Ashok Lahiri and Dr. Ramesh Chand are the part time members of the FC-15.

**Some provisions of Terms of Reference:** The Commission may consider proposing **measurable performance-based incentives for States**, at the appropriate level of government, in following areas:

- Efforts made by the States in expansion and deepening of tax net under **GST**;
- Efforts and Progress made in moving towards replacement rate of **population growth**;
- Achievements in implementation of flagship schemes of Government of India, **disaster resilient infrastructure, sustainable development goals**, and quality of expenditure;
- Progress made in increasing capital expenditure, **eliminating losses of power sector**, and improving the quality of such expenditure in generating future income streams;
- Progress made in increasing tax/non-tax revenues, promoting savings by **adoption of Direct Benefit Transfers and Public Finance Management System, promoting digital economy** and removing layers between the government and the beneficiaries;
- Progress made in **promoting ease of doing business** by effecting related policy and regulatory changes and promoting labour intensive growth;
- Provision of **grants in aid to local bodies** for basic services, including quality human resources, and implementation of performance grant system in improving delivery of services;
- Control or lack of it in incurring expenditure on **populist measures**; and
- Progress made in **sanitation, solid waste management** and bringing in behavioural change to end open defecation.
- The Commission shall use the **population data of 2011** while making its recommendations.

The Commission shall make its report available by 30th October 2019, covering a period of five years commencing 1st April, 2020.

**Some Major Issues raised with ToR**

- **Usage of 2011 census data** – Even 14th FC used the 2011 census population data along with 1971 census data and allocated 10 percent weight to 2011 population.
  - 14<sup>th</sup> FC also gave weightage to forest cover, area of state and income distance. Zero weightage was given to fiscal discipline.
- Considering the **impact of increased unconditional tax devolution to states from 32% to 42%**, suggesting that the higher devolution is incompatible with the Centre's financial need to fund development.
- **Incentivising states for “efforts and progress made in moving towards replacement rate of population growth”**, thus, rendering most states ineligible for incentives.

### 3.2. ZONAL COUNCILS

**Why in news?**

West Bengal hosted the 23rd meeting of the Eastern Zonal Council presided over by Union Home Minister.

**About Zonal Councils**

- The Zonal Councils are **statutory** bodies established under States Reorganisation Act, 1956.
- The act divided the country into **five zones** (Northern, Central, Eastern, Western and Southern) and provided a zonal council for each zone.
- The **main objectives** of setting up of Zonal Councils are as under:
  - Bringing out **national integration**;
  - **Arresting the growth of acute State consciousness**, regionalism, linguism and particularistic tendencies;
  - Enabling the **Centre and the States to co-operate** and exchange ideas and experiences;
  - Establishing a climate of **co-operation amongst the States** for successful and speedy execution of development projects.
- Each zonal council is an **advisory body** and may discuss and make recommendations on matters like **economic and social planning, linguistic minorities, border disputes, inter-state transport**, and so on.
- The **North Eastern States** (Assam, Arunachal Pradesh, Manipur, Tripura, Mizoram, Meghalaya, Nagaland and Sikkim) are **not included** in the Zonal Councils and their special problems are looked after by the North Eastern Council.

**Organisational Structure of Zonal Councils:**

- **Chairman** - The **Union Home Minister** is the Chairman of each of these Councils.
- **Vice Chairman** - The **Chief Ministers** of the States included in each zone act as Vice-Chairman of the Zonal Council for that zone **by rotation**, each holding office for a period of **one year** at a time.
- **Members**- **Chief Minister and two other Ministers** as **nominated by the Governor** from each of the States and **two members from Union Territories** included in the zone.
- Union Ministers are also invited to participate in the meetings of Zonal Councils depending upon necessity.

### 3.3. NORTH EASTERN COUNCIL

**Why in news?**

Cabinet approved repositioning of North Eastern Council

**Role and functioning of North Eastern Council**

- It is a **statutory advisory body** established under the North Eastern Council Act, 1971, as amended in 2002.
- It is the apex level nodal agency for the economic and social development of the North Eastern Region.
- Organisation structure includes
  - Ex-officio Chairman – Union Home Minister (earlier it was Ministry of DoNER)
  - Vice Chairman - Minister of State (Independent Charge), Ministry of DoNER
  - Members - Governors and Chief Ministers of all the eight States and 3 members nominated by President.
- It is mandated to function as a **Regional Planning Body for the North Eastern Region**.
- While formulating the regional plans, it needs to give priority to schemes and projects, benefitting two or more States, provided that in case of Sikkim, the Council shall formulate specific projects and schemes for that State.

### 3.4. INTER STATE COUNCIL (ISC)

**Why in news?**

The standing committee of the Inter-State Council (ISC) completed deliberations on recommendations of the Punchhi Commission.

**About ISC**

- **Article 263** of the constitution provides for the establishment of an Inter-State Council (ISC).

- It was set up on the recommendation of **Sarkaria Commission** by a **Presidential Order in 1990**.
- It is a **recommendatory body** on issues relating to inter-state, Centre–state and Centre–union territories relations. It aims at promoting coordination between them by examining, discussing and deliberating on such issues.
- It is **not a permanent constitutional body**. It can be established 'at any time' if it appears to the President that the public interests would be served by its establishment.
- **Organisation structure** includes:
  - **Prime minister** as the **Chairman**
  - **Chief ministers of all the states**
  - **Chief ministers of union territories having legislative assemblies**
  - **Administrators of union territories not having legislative assemblies**
  - **Six Central cabinet ministers, including the home minister, to be nominated by the Prime Minister.**
- The Presidential Order of 1990 has been amended twice to provide for **Governor of a State under President's rule** to attend the meeting of the Council and **nomination by the Chairman of permanent invitees from amongst the other Union Ministers**, respectively.
- There is also a **Standing Committee of the Council** for **continuous consultation** and processing of matters for the consideration of the Council. It consists of the following members:
  - **Union Home Minister** as the **Chairman**
  - **Five Union Cabinet Ministers**
  - **Nine Chief Ministers**

### 3.5. NITI AAYOG

#### Why in news?

The fourth meeting of NITI Aayog's governing council began with main agenda of deliberating upon measures taken to double farmers' income and the progress of government's flagship schemes.

#### About NITI Aayog

- The National Institution for Transforming India, also called NITI Aayog, was formed via a resolution of the Union Cabinet on January 1, 2015. It replaced the erstwhile Planning Commission.
- It is the premier policy 'Think Tank' of the Government of India, providing both directional and policy inputs.

- At the core of NITI Aayog's creation are two hubs which reflect the two key tasks of the Aayog:
  - **The Team India Hub** leads the engagement of states with the Central government
  - **The Knowledge and Innovation Hub** builds NITI's think-tank capabilities.

#### Major initiatives associated with NITI Aayog

- Atal Innovation Mission
- Sustainable Action for Transforming Human Capital
- Ek Bharat Shrestha Bharat
- District Hospital Index
- Digital Transformation Index
- School Education Quality Index
- SDG India Index
- State Human Development Report
- NITI Forum for North East
- Women Entrepreneurship Platform
- Agricultural Marketing and Farmer Friendly Reforms Index

#### About the Governing Council of NITI Aayog

- **Composition:** The Governing Council of NITI Aayog comprises the Prime Minister (Chairperson), Chief Ministers of all the States and Union Territories with Legislatures and Lt. Governor of Andaman and Nicobar Islands, and four Union Ministers as ex-officio members and three Union Ministers as Special Invitees. Also included are the members of the NITI Aayog.
- It is the **apex body of NITI Aayog** tasked with evolving a **shared vision of national development priorities**, sectors and strategies with the active involvement of States in shaping the development narrative.
- The Governing Council, which embodies these objectives of cooperative federalism, presents a platform to discuss inter-sectoral, inter-departmental and federal issues in order to accelerate the implementation of the national development agenda, in the spirit of **Ek Bharat Shrestha Bharat**.

### 3.6. STATEHOOD FOR DELHI

#### Why in news?

The Delhi government has decided to give another push to its demand for full statehood to Delhi with a public campaign.

#### Special Provision for Delhi

- The 69th Constitutional Amendment Act of 1991 provided a special status to the Union Territory of Delhi, and redesignated it as the

National Capital Territory of Delhi and designated the administrator of Delhi as the lieutenant governor (LG).

- It created a legislative assembly and a council of ministers for Delhi. Previously, Delhi had a metropolitan council and an executive council.
- The strength of the assembly is fixed at 70 members, directly elected by the people. The elections are conducted by the election commission of India.
- The strength of the council of ministers is fixed at ten per cent of the total strength of the assembly

#### Comparison between Delhi and a state

- The **chief minister is appointed by the President** (not by the LG). The **other ministers are appointed by the president** on the advice of the chief minister.
- The ministers hold office during the **pleasure of the president**.
- The Assembly can make laws on all the matters of the state list and concurrent list **except three matters of the state list – public order, police and land**. But laws of Parliament prevail over those made by the assembly.
- In case of **difference of opinion between the LG and the ministers**, LG needs to refer the matter to the **President** for decision and act accordingly.

#### Comparison between Delhi and other UTs

- **Only Delhi and Puducherry have legislative assembly** and council of ministers headed by a CM. Therefore, the Administrators of these two UTs are meant to act upon the aid and advice of the Chief Minister and his Council of Ministers.
- Delhi is the **only UT with High Court** of its own.

#### Recent Supreme Court Verdict on Delhi-Centre Power Tussle

- The Supreme Court judgement in the Government of NCT Delhi vs Union of India case, overturned the August 2016 judgment of the Delhi high court, which had ruled that since Delhi was a Union territory all powers lay with the central government, not the elected Delhi government.
- Resolving the dispute over the demarcation of powers between the Union Government and the Government of Delhi, the Supreme Court laid down a few key principles:
  - Delhi government has power in all areas except land, police and public order and **the LG is bound by the aid and advice of the government** in areas other than those

exempted.

- The only exception to this rule, it said, was a proviso to **Article 239-AA**, which allowed **the LG to refer to the President any issue** on which there was a difference of opinion with the council of ministers. In such a case, the LG would be bound by the President's decision.
- Delhi Lieutenant Governor cannot act independently and must take the aid and advice of the Council of Ministers because national capital enjoys special status and is not a full state. Hence, the role of the L-G is different than that of a Governor.
- It observed that neither the state nor the L-G should feel lionized, but realise they are serving Constitutional obligations and there is no space for absolutism or anarchy in our Constitution.

### 3.7. CAUVERY WATER MANAGEMENT SCHEME, 2018

#### Why in news?

Recently, the Union Water Resources ministry notified the constitution of the **Cauvery Water Management Authority (CWMA)** and the **Cauvery Water Regulation Committee (CWRC)** under **Cauvery Water Management Scheme, 2018**.

#### More on news

- In **February**, the Supreme Court directed the Union government to form the CWMA within six weeks.
- SC while accepting that the **issue of drinking water has to be placed on a “higher pedestal”**, raised the share of Cauvery water for Karnataka by 14.75 tmcft and reduced Tamil Nadu's share, while compensating it by allowing extraction of 10 tmcft groundwater from the river basin.
- Cauvery Water Management Scheme, 2018 is framed under Section 6A of the Inter-State River Water Disputes Act of 1956 by the Central government for the establishment of the Cauvery Management Board and the Regulation Committee

#### About Cauvery Water Management Authority

- **Its mandate is to monitor and determine the total residual storage**, apportion shares, supervise operation of reservoirs at the beginning of water year (1 June) with the assistance of the Cauvery Water Regulation Committee.
- **It will also regulate release of water by Karnataka**, at the inter-state contact point at Billigundulu gauge.

- It will advise suitable measures to improve water use efficiency, by promoting micro-irrigation (drip and sprinkler), change in cropping pattern, improved agronomic practices, system deficiency correction and command area development.
- It may take suitable actions in case of defaults by party states.
- Its chairman would be appointed by the Central Government who is a **senior and eminent engineer or an All India Service Officer** with experiences in water resource management and inter-State water sharing issues
- Unlike the earlier interim arrangements, it is a **permanent body** under the Union Ministry of Water Resources and its decisions are **final and binding** on all the party States.

#### Constitutional and legislative provisions for inter-state water disputes

- Article 262(2) empowers Parliament to provide by law that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint.
  - Cauvery Judgement was admitted by Supreme Court as Special Leave Petition (SLP). This is the first time that the apex court has allowed a SLP challenging a tribunal's award, and also modified the award.
- The Interstate River Water Disputes Act, 1956 (IRWD Act) enacted under Article 262 of Constitution. Under this article the Parliament also enacted the River Boards Act (1956).

#### About Cauvery Water Regulation Committee (CWRC)

- It would consist of a Chairman and one representative each of the party states, Indian Meteorological Department (IMD), Central Water Commission (CWC) and Ministry of Agriculture & Farmer's Welfare, along with a Member Secretary.
- It would act as a technical arm with following functions:
  - Collecting data regarding levels, inflows, storages and release of water periodically.
  - Preparing seasonal/annual report of the water account for SW monsoon, NE monsoon, Hot weather and submit it to the CWMA.

### 3.8. ARTICLE 35A

#### Why in news?

The constitutionality of article 35A is being challenged in the Supreme Court.

#### What is Article 35A?

- It was incorporated into the Constitution in 1954 by a **Presidential order issued under Article 370 (1) (d)** of the Constitution.
- It empowers J&K legislature to define state's "permanent residents" and their special rights and privileges without attracting a challenge on grounds of violating the Right to Equality of people from other States or any other right under the Constitution.
- It protects certain provisions of the J&K Constitution which denies property rights to native women who marry a person from outside the State. The denial of these rights extends to her children also.
- However, they can give these **special rights and privileges** only in the following four categories:
  - Employment under the state government;
  - Acquisition of immovable property in the state;
  - Settlement in the state; or
  - Right to scholarships and such other forms of aid as the state government may provide.
- The Article bars non-J&K state subjects to settle and buy property in J&K.

#### Article 370

- It grants **special autonomous status** to Jammu and Kashmir.
- Except for defence, foreign affairs, finance and communications, the Parliament needs the state government's concurrence for applying all other laws.
- **Part IV** (dealing with Directive Principles of State Policy) and **Part IVA** (dealing with Fundamental Duties) are not applicable to the state.
- **National Emergency Provisions-** Union government cannot declare emergency on grounds of internal disturbance or imminent danger unless it is made at the request or with the concurrence of the state government.
  - Centre can declare emergency in the state only in case of war or external aggression.
  - Centre has no power to declare financial emergency under Article 360 in the state.
- **State Emergency Provisions:** Two types of State emergencies can be declared in the state, namely, President's Rule under the Indian Constitution and Governor's Rule under the state Constitution.

**Governor's Rule:**

- The Governor's Rule can be imposed when the state administration cannot be carried on in accordance with the **provisions of the J&K Constitution**.
- The governor, with the concurrence of the President of India, can assume to himself all the powers of the state government, except those of the high court. He can dissolve the assembly and dismiss the council of ministers. It was imposed for the first time in 1977.
- If it is not possible to restore the Constitutional machinery before the expiry of this six-month period, the provision of Article 356 of the Constitution is extended, and the President's rule is imposed in the State.

**3.9. STATE FLAG****Why in news?**

- Karnataka is in the process to have its own state flag.

**More on news**

- If the flag is formally introduced in the state, Karnataka will become the second state after Jammu and Kashmir to have its own official flag.
- J&K, which enjoys special powers under Article 370 of the Constitution, adopted its own flag in 2015.
- Karnataka already had a red and yellow flag as an unofficial state flag since the mid-1960s which is hoisted every year to commemorate state formation day.
- Sikkim also has an unofficial state flag.

**Constitutional and Legal Provision**

- The **Constitution does not prohibit a state from having a separate state flag**. In *S.R. Bommai v/s Union of India* case, the Supreme

Court declared that there is no prohibition in the Constitution for the state to have its own flag. However, the manner in which the state flag is hoisted should not dishonour the national flag. It has to be always below the national flag.

- Under the Constitution, a **flag is not enumerated in the Seventh Schedule**. However, **Article 51A** ordains that every citizen shall abide by the Constitution and respect its ideals and institutions, the national flag, and the national anthem. There is no other provision regulating hoisting of flags, either by the States or by the public. It is clear that there is no prohibition under the Constitution to hoist any flag other than the national flag.
- Parliament has framed legislation regulating the hoisting of the national flag. The **Emblems and Names (Prevention of Improper Use) Act, 1950** prohibits against "use for any trade, business, calling or profession, or in the title of any patent, or in any trademark of design, any name or emblem specified in the Schedule".
- Under the **Prevention of Insults to National Honour Act, 1971**, there is no prohibition against any State hoisting its own flag. What is prohibited under this Act is insulting the national flag by burning it, mutilating it, defacing it, etc.
- The **Flag Code of India, 2002** does not impose prohibitions on a State flag. On the contrary, in the provisions regarding hoisting of the national flag by the general public, private organisations, educational institutions, etc., the Code expressly authorises the flying of other flags under the condition that they should not be hoisted from the same masthead as the national flag or placed higher than it.

## 4. JUDICIARY

### 4.1. SUPREME COURT COLLEGIUM

#### Why in news?

There have been new appointments to Supreme Court.

#### Appointment to Higher Judiciary

- The **appointment of the judges in the Supreme Courts and the High Courts** is done by the President of India and the powers are given to him under Articles 124(2) and 217 of the Indian Constitution.
- **Collegium System:** It is the system of appointment and transfer of judges that has evolved through judgments of the Supreme Court, and not by an Act of Parliament or by a provision of the Constitution.
- The **Supreme Court collegium** is headed by the Chief Justice of India and comprises four other senior most judges of the court. A **High Court collegium** is led by its Chief Justice and four other senior most judges of that court. Names recommended for appointment by a High Court collegium reaches the government only after approval by the CJI and the Supreme Court collegium.
- **Government's role in Judicial Appointment:** Judges of the higher judiciary are appointed only through the collegium system — and the government has a role only after names have been decided by the collegium.
  - The government's role is limited to getting an inquiry conducted by the Intelligence Bureau (IB) if a lawyer is to be elevated as a judge in a High Court or the Supreme Court.
  - It can also raise objections and seek clarifications regarding the collegium's choices, but if the collegium reiterates the same names, the government is bound, under Constitution Bench judgments, to appoint them as judges.
- **Procedure to appointment:** As per the rules, the Chief justice of India (CJI) in consultation with four top-most judges recommend the elevation of high court judges to the apex court. The CJI then needs to submit this recommendation to the Central government as part of the record. After receipt of the final recommendation of the CJI, the Minister of Law and Justice will put up the recommendation to the Prime Minister who

will advise the President in the matter of appointment.

### 4.2. CHIEF JUSTICE OF INDIA

#### Why in news?

On various occasions the Supreme Court reiterated the authority of the Chief Justice of India to be first among the equals.

#### Appointment Procedure

- Appointment to the office of the Chief Justice of India should be of the senior-most Judge of the Supreme Court considered fit to hold the office. The Minister of Law and Justice would seek the recommendation of the outgoing Chief Justice of India for the appointment of the next Chief Justice of India.

#### Administrative Position of Chief Justice of India (CJI)

- **Seat of the Supreme Court (Article 130):** The Constitution declares Delhi as the seat of the Supreme Court. But, it also authorises the chief justice of India to appoint other place or places as seat of the Supreme Court. He can take decision in this regard only with the approval of the President.
- **Ad hoc Judge (Article 127):** When there is a lack of quorum of the permanent judges to hold or continue any session of the Supreme Court, the Chief Justice of India can appoint a judge of a High Court as an ad hoc judge of the Supreme Court for a temporary period. He can do so only after consultation with the chief justice of the High Court concerned and with the previous consent of the president.
- **Retired Judges (Article 128):** At any time, the chief justice of India can request a retired judge of the Supreme Court or a retired judge of a high court (who is duly qualified for appointment as a judge of the Supreme Court) to act as a judge of the Supreme Court for a temporary period. He can do so only with the previous consent of the president and also of the person to be so appointed.
- As per Supreme Court Rules, assignment of cases had to be done by CJI. The Supreme Court Rules are framed by the Supreme Court in exercise of powers under Article 145 of the Constitution.
- **Freedom to Appoint its Staff (Article 146):** The Chief Justice of India can appoint officers and servants of the Supreme Court without



any interference from the executive. He can also prescribe their conditions of service.

### 4.3. SUB-ORDINATE COURTS

#### Why in News?

Supreme Court expressed concern over the high level of vacancy in subordinate courts.

#### Recruitment Process of District Courts

- The appointment, posting and promotion of **district judges** in a state are **made by the governor** of the state in **consultation with the high court**. A person to be appointed as district judge should have the **following qualifications**:
  - He should not already be in the service of the Central or the state government.
  - He should have been an advocate or a pleader for seven years.
  - He should be recommended by the high court for appointment.
- Appointment of other Judges** (other than district judges) to the judicial service of a state are made by the governor of the state after consultation with the State Public Service Commission and the high court.
- Control over Subordinate Courts:** The control over district courts and other subordinate courts including the posting, promotion and leave of persons belonging to the judicial service of a state and holding any post inferior to the post of district judge is **vested in the high court**.



### 4.4. SEPARATE HIGH COURTS FOR ANDHRA PRADESH & TELANGANA

#### Why in news?

Recently the separate High Courts for Telangana and Andhra Pradesh came into being.

#### More on news

- With the enactment of the Andhra Pradesh Reorganisation Act, 2014, Andhra Pradesh was bifurcated into two states, viz., State of Andhra Pradesh and State of Telangana.
- The Act, which had come into effect from June 2, 2014 has a provision for separate High Courts for State of Telangana and State of Andhra Pradesh.

#### Constitutional Provisions for High Courts

- Articles 214 to 231 in **Part VI** of the Constitution deal with the organisation, independence, jurisdiction, powers, procedures and so on of the high courts.
- The Constitution of India provides for a high court for each state, but the **Seventh Amendment Act of 1956** authorised the Parliament to establish a common high court for two or more states or for two or more states and a union territory.
- The territorial jurisdiction of a high court is co-terminus with the territory of a state. Similarly, the territorial jurisdiction of a common high court is co-terminus with the territories of the concerned states and union territory.
- At present, there are **25 high courts** in the country (including the Andhra Pradesh HC). Out of them, three are common for 2 or more states.
- Delhi is the only union territory that has a high court of its own** (since 1966).
- The Parliament can extend the jurisdiction of a high court to any union territory or exclude the jurisdiction of a high court from any union territory.

Bombay HC	Maharashtra, Goa, Dadra and Nagar Haveli, Daman and Diu
Guwahati HC	Assam, Nagaland, Mizoram and Arunachal Pradesh
Punjab and Haryana HC	Punjab, Haryana, Chandigarh
Calcutta HC	West Bengal, Andaman and Nicobar Islands
Tamil Nadu HC	Tamil Nadu, Puducherry
Kerala HC	Kerala, Lakshadweep

### 4.5. ADR MECHANISMS

#### Why in News?

The New Delhi International Arbitration Centre Ordinance, 2019 was promulgated.

## Details

- **New Delhi International Arbitration Centre (NDIAC):** The Ordinance seeks to provide for the establishment of the NDIAC to conduct arbitration, mediation, and conciliation proceedings. It declares the NDIAC as an institution of national importance.
- **International Centre for Alternative Dispute Resolution (ICADR):** The Ordinance seeks to transfer the existing ICADR to the central government.

### International Centre For Alternative Dispute Resolution (ICADR)

- It is an autonomous organization with its headquarters at New Delhi. The Regional Centres of ICADR are fully funded and supported by the respective State Governments.
- It was set up by the Department of Legal Affairs as an autonomous body registered under the Societies Registration Act, 1860.
- The Minister for Law & Justice is the Chairman of ICADR.
- Its main object is to promote popularize and propagate Alternative Dispute Resolution to facilitate early resolution of disputes to reduce the burden of arrears in the Courts.

## Tools of Alternative Dispute Redressal

- **Arbitration** is a process in which a neutral third party or parties render a decision based on the merits of the case.
  - It can start only if there exists a valid arbitration agreement between the parties prior to the emergence of the dispute.
- **Mediation** aims to facilitate the development of a consensual solution by the disputing parties.
  - It is overseen by a non-partisan third party - the Mediator. The authority of the mediator vests on the consent of the parties that he should facilitate their negotiations.
- **Conciliation** is a process by which resolution of disputes is achieved by compromise or voluntary agreement.
  - In contrast to arbitration, the conciliator does not render a binding award. The parties are free to accept or reject the recommendations of the conciliator.

- **National Legal Service authority (NALSA)** – It has been constituted under the Legal Services Authorities Act, 1987 to provide free Legal Services to the weaker sections of the society and to organize Lok Adalats for amicable settlement of disputes. National Legal Services Authority was constituted on 5th December 1995. It issues guidelines for the State Legal Authorities to implement the legal programs and schemes through the country.
- **Gram Nyayalaya:** mobile village courts in India established under Gram Nyayalayas Act, 2008 for speedy and easy access to justice system in the rural areas of India. In terms of Section 3(1) of the the Act, it is for the State Governments to establish Gram Nyayalayas in consultation with the respective High Courts.

## 4.6. REVIEW OF THE CONTEMPT OF COURTS ACT, 1971

### Why in news?

The Law Commission has submitted report titled “Review of the Contempt of Courts Act, 1971”.

### Contempt of Court

- The expression ‘**contempt of court**’ has not been defined by the Constitution. However, the expression has been defined by the **Contempt of Court Act of 1971**. Under this, contempt of court may be civil or criminal.
- **Civil contempt** means wilful disobedience to any judgement, order, writ or other process of a court or wilful breach of an undertaking given to a court.
- **Criminal contempt** means the publication of any matter or doing an act which- (i) scandalises or lowers the authority of a court; or (ii) prejudices or interferes with the due course of a judicial proceeding; or (iii) interferes or obstructs the administration of justice in any other manner.
- However, innocent publication and distribution of some matter, fair and accurate report of judicial proceedings, fair and reasonable criticism of judicial acts and comment on the administrative side of the judiciary do not amount to contempt of court.

## 5. ELECTION

### 5.1. ELECTRONIC VOTING MACHINE (EVM)

#### Why in news?

Recently, there have been controversies surrounding EVMs regarding their safety feature.

#### About Electronic Voting Machine (EVM)

- An EVM consists of a "control unit" and a "balloting unit". The **control unit** is with the Election Commission-appointed polling officer; the **balloting unit** is in the voting compartment into where voter casts her vote in secret
- It runs on a **single alkaline battery** fitted in the control unit, and can even be used in areas that have no electricity.
- They are manufactured by **Electronics Corporation of India Limited (ECIL) and Bharat Electronics Limited (BEL)**.

#### History of EVMs in Indian Elections

- EVMs were **1<sup>st</sup> used in 1982 Kerala Assembly elections** (by-election).
- However, SC struck down the election since Representation of People Act, 1951, and Conduct of Elections Rules, 1961, did not allow use of EVMs.
- **RP Act 1951 was amended in 1988** to allow usage of EVMs.
- In **1999**, they were used for the **1<sup>st</sup> time in the entire state for Goa Legislative Assembly elections**.
- In **2004**, EVMs were used for the **1<sup>st</sup> time in Lok Sabha elections**.

#### Safety Features within EVMs

- **Non-reprogrammable:** It consists of an integrated circuit (IC) chip that is one time programmable (software burnt at the time of manufacturing) and cannot be reprogrammed.
- **No external communication:** Indian EVMs are standalone machines. They are not networked by any wired or wireless system.
- **Secure Source Code:** Software and source code developed in-house by selected group of engineers in BEL and ECIL.
- It allows a voter to **cast the vote only once**. The next vote can be recorded only after Presiding Officer enables the ballot on CU.
- **Time stamping of votes:** EVMs are installed with real time clock, full display system and time-stamping of every key pressing so there is no possibility of system generated/latent votes.

- **Secure against post-manufacturing tampering:** The machines with **self-diagnostics** shut down automatically in case of tampering.
- There are also various **procedural checks and balances** (Standard Operating Procedure) like functional checks, trial run, random allocation, multi-stage testing, dry run and safe & secure storage post voting, included for ensuring free and fair elections.

#### Related Information

##### Voter Verifiable Paper Audit Trail (VVPAT)

- VVPATs are an **independent verification system** designed to allow voters to verify that their votes were cast correctly, to detect possible election fraud/malfunction and to provide a means to audit the stored results in case of disputes.
- In VVPATs, a paper slip is generated bearing serial number, name and symbol of the candidate along with recording of vote in CU. The printed slip is visible (for 7 seconds) in a viewing window attached to BU in voting compartment.
- In **Subramaniam Swamy vs ECI (2013)**, SC said VVPAT is necessary for transparency in voting and must be implemented by ECI. In General Elections 2019, VVPATs will be used in all the constituencies.

### 5.2. DELIMITATION COMMISSION

#### Why in news?

The Supreme Court has issued notices to the Delimitation Commission of India (DCI), the Election Commission of India (ECI), the Centre and others on a petition seeking proportional representation in the Legislative Assembly for Limboo and Tamang Scheduled Tribes of Sikkim.

#### Delimitation Act, 2002

- Articles 82 and 170 of the Constitution of India provide for readjustment and the division of each State into territorial constituencies (Parliamentary constituencies and Assembly constituencies) on the basis of the 2001 census by such authority and in such manner as Parliament may, by law, determine.
- Therefore, the Delimitation Act, 2002, was enacted to set up a Delimitation Commission for the purpose of effecting delimitation based on the 2001 census.
  - Delimitation commissions were set up in 1952 (1951 census), 1962 (1961 census), 1972 (1971 census) and 2002 (2001 census)
- **Procedure and powers of the Commission**
  - The Commission shall determine its own procedure and shall, in the performance

- of its functions, have all the powers of a civil court under the Code of Civil Procedure, 1908.
- If there is a difference of opinion among the members, the **opinion of the majority** shall prevail.
  - The Commission shall cause each of its orders w.r.t delimitation of constituencies to be **published in the Gazette of India and in the Official Gazettes of the States concerned** and simultaneously cause such orders to be published at least in two vernacular newspapers and publicize on radio, television and other possible media available to the public.
  - Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court. As soon as may be after such publication, every such order shall be laid before the House of the People and the Legislative Assemblies of the States concerned.

### 5.3. ELECTRONICALLY TRANSMITTED POSTAL BALLOT SYSTEM (ETPBS)

#### Why in news?

The ETPBS was recently used in Chengannur (Kerala) Assembly bypoll for service voters.

#### More about ETPBS

- It provides an **alternative method of quick dispatch of Postal Ballot paper electronically** (earlier delivered by post) to the entitled Service Voters.
- It was **developed by the Election Commission** with the help of **Centre for Development of Advanced Computing (C-DAC)**.
- **It uses QR codes** for uniqueness of the Service Voters and the secrecy in transmission is ensured by the use of OTP and PIN.
- The postal ballots are delivered in **electronic data format** to voters on a **real time basis**. The voters can download the postal ballot and votes so cast would be received by the returning officer **through post**.
- It was **first used in Nellithope by-elections in Puducherry** in 2016.

#### Service Voter

As mentioned in **Representation of People's Act, 1950**, Service voters are:

- members of Armed Forces of the Union
- members of forces to which provisions of Army Act, 1950 applies.

- members of armed police force of a State and serving outside that state
- persons who are employed by Gol in a post outside India.

#### Proxy Voting in India

- Voting in an Indian election can be done in three ways-
  - in person
  - by post
  - and, through a proxy.
- Under proxy voting, a registered elector can delegate his voting power to a representative.
- This was **introduced in 2003 for elections to the Lok Sabha and Assemblies**, but on a limited scale.
- A "**classified service voter**" is allowed to nominate a proxy to cast vote on his behalf in his absence.
- However, a service voter can also vote by postal ballot.
- Recently, the Lok Sabha passed the Representation of the People (Amendment) Bill, 2017 to allow for the **proxy voting by the Non-Residential Indians** through amendment in Section 60 (special procedure for voting by certain classes of persons).

### 5.4. NONE OF THE ABOVE (NOTA)

#### Why in News?

Maharashtra State Election Commission (MSEC) recently made an order for local body polls that **fresh elections** should be held if **NOTA 'emerges winner'**.

#### About NOTA

- It was introduced in India following the 2013 Supreme Court directive. It is an option the voting machine, designed to **allow voters to disapprove all the candidates** while delivering their vote. Its **symbol was introduced in 2015**.
- However, NOTA in India **does not provide for a 'right to reject'**. The candidate with the maximum votes wins the election irrespective of the number of NOTA votes polled.
- The NOTA votes have not been accounted while calculating votes polled by candidates for making them eligible (1/6th of valid votes) for getting back their security deposits.
- Election Commission currently has **no plenary power to call a fresh election** even if NOTA secures highest votes.
- SC has ruled that NOTA option is applicable only for direct elections and not indirect elections such as the Rajya Sabha polls.
- To give greater sanctity to NOTA and even order a fresh election, **Rule 64 of Conduct of Election Rules will have to be amended** and

can be done by the law ministry. It will **not** require Parliament sanction.

**Rule 64**

It refers to “**declaration of result of election and return of election**”. But the rule does not consider a situation where NOTA votes may be higher than those polled by any candidate.

### 5.5. TWO-CONSTITUENCIES NORM

**Why in news?**

The Supreme Court is examining the constitutional validity of Section 33(7) of the Representation of People Act, 1951 that allows a candidate to fight from two seats at the same time.

**Representation of People Act, 1951 (Two-Constituency norm)**

- In the original 1951 Act, Section 33 permitted a person to contest from more than one seat, while Section 70 of the Act prevented him or her from holding on to more than one seat in state or central legislatures.
- The 1996 amendment to the RPA sets the limit at two seats.
- Recently ECI has favoured amendments in this section to allow contesting from one seat.

**Vacating of Seats upon Double Membership:** The Representation of People Act (1951) provides for the following:

- If a person is elected to both the Houses of Parliament, he must intimate within 10 days in which House he desires to serve. In default of such intimation, his seat in the Rajya Sabha becomes vacant.
- If a sitting member of one House is also elected to the other House, his seat in the first House becomes vacant.
- If a person is elected to two seats in a House, he should exercise his option for one. Otherwise, both seats become vacant.
- Similarly, a person cannot be a member of both the Parliament and the state legislature at the same time. If a person is so elected, his seat in Parliament becomes vacant if he does not resign his seat in the state legislature within 14 days.

### 5.6. SYSTEMATIC VOTERS EDUCATION AND ELECTORAL PARTICIPATION (SVEEP)

**Why in news?**

A dedicated portal for the ECI’s ‘Systematic Voters Education and Electoral Participation’ (SVEEP) initiative was launched.

**About SVEEP Initiative**

- It is the flagship program of the **Election Commission of India** for voter education, spreading voter awareness and promoting voter literacy in India. Since 2009, ECI has been working towards preparing India’s electors and equipping them with basic knowledge related to the electoral process.

**Related News**

- The Election Commission of India (ECI) has organized “**National Consultation on Accessible Elections**”.
- The event is a part of the ECI’s pursuit of its mission ‘leave no voter behind,’ with special focus on “Persons with Disabilities” (PWD).
- Its primary goal is to build a truly participative democracy in India by encouraging all eligible citizens to vote and make an informed decision during the elections.

### 5.7. SECTIONS OF RPA, 1951 IN NEWS

Section	Details
<b>Section 126</b>	It prohibits displaying any election matter by means, inter alia, of television or similar apparatus, during the period of 48 hours before the hour fixed for conclusion of poll in a constituency.
<b>Section 126A</b>	It prohibits conduct of Exit poll and dissemination of their results during the period mentioned therein, in the hour fixed for commencement of polls in the first phase and half hour after the time fixed for close of poll for the last phase in all the States.
<b>Section 151A</b>	<ul style="list-style-type: none"> <li>• It specifies that a bye-election for filling any vacancy must be held within 6 months from the date of occurrence of the vacancy.</li> <li>• It also provides for the exception in which the bye-elections may not be conducted if:               <ul style="list-style-type: none"> <li>○ The remainder term for the member in relation to a vacancy is less than 1 year or,</li> <li>○ Election commission in consultation with the central government certifies that it is difficult to hold the bye-elections within the said period.</li> </ul> </li> </ul>

## 6. MAJOR CONSTITUTIONAL AMENDMENTS (BILLS AND ACTS)

### 6.1. 123RD CONSTITUTIONAL AMENDMENT BILL

#### Why in news?

The Parliament has recently passed the Constitution (123rd Amendment) Bill.

#### Amendment by Special Majority of Parliament and Consent of States:

- Those provisions of the Constitution which are related to the **federal structure of the polity** can be amended by a special majority of the Parliament and also with the consent of half of the state legislatures by a simple majority.
- If one or some or all the remaining states take no action on the bill, it does not matter; the moment half of the states give their consent, the formality is completed.
- There is **no time limit** within which the states should give their consent to the bill.
- The following provisions can be amended in this way:
  - Election of the President and its manner.
  - Extent of the executive power of the Union and the states.
  - Supreme Court and high courts.
  - Distribution of legislative powers between the Union and the states.
  - Any of the lists in the Seventh Schedule.
  - Representation of states in Parliament.
  - Power of Parliament to amend the Constitution and its procedure (Article 368 itself).

#### More on news

- Added a **new article 338B** which provides for NCBC, its composition, mandate, functions and various officers.
- Added a **new article 342-A** which empowers the president to notify the list of socially and educationally backward classes of that state / union territory. He may do this in consultation with the Governor of the concerned state. However, a law of Parliament will be required if the list of backward classes is to be amended.
- It would also **amend article 366** to add a clause 26C providing definition of socially and educationally backward classes.
- This would bring it **at par** with the National Commission for Scheduled Castes (NCSC) and the National Commission for Scheduled Tribes (NCST).

- The **NCBC would get constitutional status after half of the states approve it with a simple majority** and President gives his nod to the legislation.

#### Other Provisions of the Bill

- **Composition and service conditions:** Under the Constitution Amendment Bill, the NCBC will comprise of five members appointed by the President. Their tenure and conditions of service will also be decided by the President through rules.
- **Functions:** The duties of the NCBC will include:
  - Investigating and monitoring how safeguards provided to the backward classes under the Constitution and other laws are being implemented,
  - Inquiring into specific complaints regarding violation of rights, and
  - Advising and making recommendations on socio-economic development of such classes.
  - The central and state governments will be required to consult with the NCBC on all major policy matters affecting the socially and educationally backward classes.
  - The NCBC will be required to present annual reports to the President on working of the safeguards for backward classes. These reports will be tabled in Parliament, and in the state legislative assemblies of the concerned states.
- **Powers of a civil court:** The NCBC will have the powers of a civil court while investigating or inquiring into any complaints. These powers include: (i) summoning people and examining them on oath, (ii) requiring production of any document or public record, and (iii) receiving evidence.

### 6.2. RESERVATION FOR ECONOMICALLY WEAKER SECTIONS

#### Why in news?

President gave assent to **The Constitution (103rd Amendment) Act, 2019 (124<sup>th</sup> Constitution Amendment Bill)** to provide **10% reservation** in government jobs and educational institutions to the **economically weaker sections (EWS)** among those who are not covered under any reservation plan.



### Key features of the amendment

- The **amendment adds Article 15(6)** to enable the government to take special measures (not limited to reservations) for the advancement of “economically weaker sections” (EWS).
  - Up to 10% of seats may be reserved for such sections for admission in educational institutions. Such reservation **will not apply** to minority educational institutions.
- The **amendment adds Article 16(6)** which permits the government to reserve up to 10% of all posts for the “economically weaker sections” of citizens.
- The reservation of up to 10% for the EWS will be **in addition to the existing reservation cap** of 50% reservation for SC, ST and OBCs.
- The central government will notify the “**economically weaker sections**” of citizens on the basis of family income and other indicators of economic disadvantage.
- **Constitutional recognition to Economically Weaker Section (EWS):** For the very first time, economic class is constitutionally recognized as vulnerable section & would form the basis of affirmative action programme. It is a departure from traditional centrality of caste in deciding affirmative action.

## 6.3. RESERVATION IN PROMOTION

### Why in news?

- The Supreme Court has permitted Central government for **reservation in promotion to SC/ST employees working in the public sector** in “**accordance with law**” i.e. as per the Nagaraj Case (2006) guidelines.
- A five-judge Constitution bench allowed for grant of **quota for promotions in the government jobs to SCs and STs without the**

**need to “collect quantifiable data”** reflecting the backwardness among these communities as mandated by the Nagaraj judgement of 2006.

### Related SC Judgements and Constitutional provisions

- **Article 15(4)** allows State to make special provision for the advancement of any socially and educationally backward classes of citizens or for SCs and STs.
- **Nine judge bench in Indra Sawhney case (1992)**
  - The Supreme Court upheld the Mandal Commission’s 27 percent quota for backward classes with a condition that combined reservation should not exceed 50%.
  - It also struck down the government notification reserving 10% government jobs for economically backward classes among the higher castes on the grounds that Constitution only provides for addressing social backwardness.
  - **Creamy layer must be eliminated** from the Backward Classes.
  - There should be **no reservation in the promotions**.
- As the Indra Sawhney judgement disallowed reservation in promotions and consequential seniority, **Parliament enacted three constitutional amendments** in 1995, 2000 and 2002, the most contested one being Article 16 (4A).
- **Article 16 (4A) added by 77<sup>th</sup> CA Act, 1995:** Allows for reservation in matters of promotion, with consequential seniority, in favour of the Scheduled Castes and the Scheduled Tribes which are not adequately represented.
- The **85<sup>th</sup> CA Act, 2001** gave back “consequential seniority” to SC/ST promotees.
- **Five judge bench in Nagaraj Case (2006):**
  - The court upheld the constitutional validity of the amendments.
  - But it also said that for providing quota in promotions the states must provide:
    - ✓ quantifiable data on the backwardness of Scheduled Castes (SC) and Scheduled Tribes (ST)
    - ✓ the facts about their inadequate representation
    - ✓ the overall administrative efficiency.
    - ✓ not breach the ceiling-limit of 50% or obliterate the creamy layer or extend the reservation indefinitely.

## 6.4. NORTH-EAST AUTONOMOUS COUNCILS

### Why in news?

Recently, **Constitution (125th Amendment) Bill, 2019** was introduced in Rajya Sabha. The Bill amends provisions related to the Finance Commission and the Sixth Schedule of the Constitution to increase the financial and executive powers of the 10 Autonomous Councils in the Sixth Schedule areas.

### Related information

**5th Schedule (Art 244 (1))**- deals with the control and administration of the Schedule Areas. Some of the important features of the Schedule are:

- It deals with provision for the constitution of a Tribes Advisory Council.
  - However, the council in 5th schedule is creation of state legislature while in 6th schedule it is the product of constitution.
  - In fifth schedule, tribal advisory council have only advisory powers to the state government and that too only on the matters referred to the council by governor.
  - It has financial power to prepare budget for themselves unlike council in 5th areas.
  - Councils of the sixth schedule also receive funds from consolidated fund of India to finance schemes for development, health, education, roads.
- The Governor has the power to adapt laws passed by Parliament and State legislature in such a way that it suits these areas.
- It provides Governor with the power to make regulation for good governance and peace for the area.
- The Fifth Schedule also deals with the extension of direction by the Union to a State for the administration of the Schedule Areas.

### About autonomous councils and 6th schedule

- **6<sup>th</sup> schedule** deals with the **administration of the tribal areas** in four north-eastern states of **Assam, Meghalaya, Tripura and Mizoram**.
  - They are treated differently by the constitution because the tribes in these states have **not assimilated much** the life and ways of the other people in these states.
- The tribal areas in these states have been constituted as **autonomous districts**, each of which has an **autonomous district council** consisting of 30 members. Currently, there are **10 such councils**.
- These autonomous districts are directly administered by the Governor.
- Some of the **powers and functions** of autonomous councils include:
  - They can make **laws on certain specified matters** like land, forest, canal water, shifting cultivation, inheritance of property, marriage, divorce etc. These require assent of the governor.
  - They can constitute **village councils or courts** within their jurisdiction, for trials of suits and cases between the tribes.
  - They can **establish, construct or manage** primary **schools, dispensaries, markets, ferries, fisheries, roads** and so on in the district.
  - They can make **regulations for the control of money lending and trading by non-tribals**, but these require the assent of the governor.
  - They are empowered to **assess and collect land revenue** and to **impose certain specified taxes**.
- Article 244A provides for an autonomous state for certain tribal areas in Assam with its own legislature and council of ministers.



## 7. IMPORTANT LEGISLATIONS/BILLS

### 7.1. CITIZENSHIP AMENDMENT BILL

#### Why in news?

The Citizenship (Amendment) Bill 2016 which recently lapsed saw opposition from various quarters of the country.

#### The Citizenship Act, 1955

- It provides for **acquisition of citizenship** by birth, descent, registration, naturalization and by incorporation of territory into India.
- The Act **prohibits illegal migrants from** acquiring Indian citizenship. It **defines an illegal migrant** as a foreigner: (i) who enters India without a valid passport or travel documents, or (ii) stays beyond the permitted time.
- It **regulates registration of Overseas Citizen of India Cardholders (OCIs)**, and their rights.
- It allows central government to cancel the registration of OCIs on grounds such as fraudulent registration, imprisonment for more than 2 years within 5 years of registration, sovereignty & security of the country etc.

#### Provisions of the Bill

- **Definition of Illegal Migrants:** The Bill amends the Citizenship Act, 1955 to provide that **'persecuted' non-Muslim minorities** (Hindu, Sikh, Buddhist, Jain, Parsi & Christian communities) from Pakistan, Afghanistan and Bangladesh, who have arrived in India **on or before December 31, 2014** & living in India without valid travel documents to obtain Indian citizenship, will not be treated as illegal migrants. However, to get this benefit, they must also be exempted from provisions of the Passport (Entry into India) Act, 1920, and the Foreigners Act, 1946 by the central government.
- **Citizenship by naturalization:** The amendment reduces the aggregate period of residential qualification for acquiring citizenship by naturalization from 11 years to 6 years, along with continuous stay for last 12 months.
- **Cancellation of registration of Overseas Citizens of India (OCIs):** Bill adds one more provision for cancellation of registration of OCIs for violation of any law in the country.

**Related News – Calls for full citizenship to OCI card holders, merger of Person of India Origin (PIO) and OCI cards**

#### The benefits of OCI cards

- **Multiple entry lifelong visa** for visiting India for any purpose (However OCI Cardholders will require a special permission to undertake research work in

India for which they may submit the application to the Indian Mission/ Post/ FRRO concerned).

- **Exemption from registration** with Foreigners Regional Registration Officer (FRRO) or Foreigners Registration Officer (FRO) for any length of stay in India.
- Parity with Non-Resident Indians (NRIs)
  - in respect of all facilities available to them in economic, financial, and educational fields except in matters relating to the acquisition of agricultural or plantation properties.
  - in the matter of **inter-country adoption** of Indian children.
- Treated at par with resident Indian nationals in the matter of tariffs in air fares in domestic sectors in India.
- Charged the same entry fee as domestic Indian visitors to visit national parks and wildlife sanctuaries in India.
- A person registered as an OCI Cardholder is eligible to apply for grant of Indian citizenship under section 5(1) (g) of the Citizenship Act, 1955 if he/she is registered as OCI Cardholder for five years and is ordinarily resident in India for twelve months before making an application for registration.

#### Restrictions for OCI card holders

- The OCI Cardholder is **not entitled to vote**, be a member of Legislative Assembly or Legislative Council or Parliament, cannot hold Constitutional posts such as President, Vice President, Judge of Supreme Court or High Court etc.
- The OCI Cardholder shall not be entitled for appointment to public services and posts in connection with the affairs of the Union or of any State except for appointment in such services and posts as the Central Government may, by special order, in that behalf, specify.
- Further, the **OCI Cardholder cannot acquire agricultural or plantation properties in India.**

### 7.2. ENEMY PROPERTY ACT

#### Why in News?

The Union Cabinet has approved the mechanism and procedure for sale of the enemy shares.

#### Details

- To administer the enemy property seized during the wars, the government enacted the Enemy Property Act in 1968.
- The act defines **"Enemy property"** refers to any property belonging to, held or managed on behalf of an enemy, an enemy subject or an enemy firm.
  - The Defence of India Acts **defined an 'enemy'** as a country that committed an act of aggression against India.

- The Enemy Property Act laid down the **powers of the Custodian of Enemy Property of India (CEPI) for management and preservation of the enemy properties.**
  - CEPI has been established under the Ministry of Home Affairs and is empowered to appropriate property in India owned by Pakistani nationals under Defence of India Act.
  - Under the recently approved the mechanism and procedure it has been given **powers for sale of enemy shares.**
- **Department of Investment and Public Asset Management (DIPAM)** has been authorized under the provisions of the Enemy Property Act **to sell the enemy properties.**
- **Sale proceeds** are to be **deposited as disinvestment proceeds** in the **Government Account maintained by Ministry of Finance.**
- A recent amendment to the Enemy Property (Amendment and Validation) Act, 2017, ensures the **heirs of those who migrated to Pakistan and China** during Partition and afterwards will have **no claim over the properties left behind in India.**

### 7.3. PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT

#### Why in news?

The central government has notified Sessions courts in 34 states and Union Territories, which will act as special courts for trial of offences under the Benami Transaction Law.

#### Benami Transactions Informants Reward Scheme, 2018

- This new scheme has been initiated by the **Income Tax Department** with the objective of obtaining people's participation in the Income Tax Department's efforts to unearth black money and to reduce tax evasion.
- A person can get **reward up to Rs. One crore** for giving specific information in prescribed manner about benami transactions and properties as well as proceeds from such properties which are actionable under Benami Property Transactions Act, 1988, as amended by Benami Transactions (Prohibition) Amendment Act, 2016.
- **Foreigners will also be eligible** for such reward. Identity of the persons giving information will not be disclosed and strict confidentiality shall be maintained.

#### Provisions of the Benami Transaction Law

- The 1988 Act as amended in 2016, **defines a benami transaction** as a transaction where a property is held by or transferred to a person, but has been provided or paid by another person. The definition also includes property

transactions where i) a transaction been made under a fictitious name; ii) the owner is not aware or denies knowledge of the ownership of the property; iii) the person providing the property is not traceable.

- The key changes that will ensure transparency is the introduction of four authorities — **Initiating Officer, Approving Authority, Administrator, and Adjudicating Authority** — who will conduct investigations and inquiries on Benami transactions. An Appellate Tribunal will hear appeals passed by the Adjudicating Authority, and these in turn will be heard by the High Court.
- The act mandates the Central Government in consultation with the Chief Justice of respective High Court to designate one or more courts of session as Special Court for trial of offence punishable under it. The special court has to complete the trial within six months from the date of complaint filing.

#### Recent actions taken

- The Union Cabinet has approved the **appointment of Adjudicating Authority** and establishment of **Appellate Tribunal** under Prohibition of Benami Property Transactions Act (PBPT), 1988.
- Appointment of the Adjudicating Authority would provide first stage review of administrative action under the PBPT Act. Establishment of the proposed Appellate Tribunal would provide an appellate mechanism for the order passed by the Adjudicating Authority under the PBPT Act.

### 7.4. FUGITIVE ECONOMIC OFFENDERS BILL (FEOB), 2018

#### Why in news?

President recently gave his assent to the Fugitive Economic Offenders Bill (FEOB), 2018.

#### Salient Features of the Act

- The Act allows for a person to be **declared as a fugitive economic offender (FEO) if:**
  - an arrest warrant has been issued against him for any specified offences where the value involved is over Rs 100 crore, and
  - he has left the country and refuses to return to face prosecution.
- It extends not only to loan defaulters and fraudsters, but also to individuals who violate laws governing taxes, black money, benami properties and financial corruption.
- The **Enforcement Directorate (ED)** will be the apex agency to implement the law.

- To declare a person an FEO, an application will be filed in a **Special Court (designated under the Prevention of Money-Laundering Act, 2002)** containing details of the properties to be confiscated, and any information about the person's whereabouts.
- The Special Court will require the person to appear at a specified place at least six weeks from issue of notice. Proceedings will be terminated if the person appears.
- The Act allows authorities to **provisionally attach properties of an accused**, while the application is pending before the Special Court.
- Upon declaration as an FEO, **properties of a person may be confiscated** and vested in the central government, free of encumbrances (rights and claims in the property).
- Those classified as fugitives **will also not be able to pursue any civil cases** in India unless they come back to India and face prosecution.

- by the Central and State Government.
- The act shifted the **burden of proof from prosecution to the accused**.
- The **'public servant'** as per the definition includes any person in service of a government and in the pay of the government, or its department, its companies or any undertaking or control of the government.
- MPs and MLAs** have been kept out of this act.
- If the offences against the public servant have been proved, it is punishable with **imprisonment of not less than six months which may extend upto five years**.

## 7.5. PREVENTION OF CORRUPTION (AMENDMENT) ACT, 2018

### Why in News?

Parliament has passed the Prevention of Corruption (Amendment) Act, 2018, which amends the archaic Prevention of Corruption Act, 1988.

#### Prevention of Corruption Act 1988

- The act extends to whole of India except Jammu and Kashmir.
- Under this Act **special judges** were to be appointed

### Brief background

- Currently, offences related to corrupt practices of public officials are regulated by the Prevention of Corruption Act, 1988.
- In 2011, India ratified the **United Nations Convention against Corruption**, and agreed to bring its domestic laws in line with the Convention that covers giving and taking a bribe, illicit enrichment and possession of disproportionate assets by a public servant as offences, addresses bribery of foreign public officials, and bribery in the private sector.

#### United Nations Convention against Corruption

- It is the only legally binding universal anti-corruption instrument.
- It covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange.
- It covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector.

## KEY PROVISIONS OF THE ACT

<p><b>1 BRIBERY</b></p> <p><b>What is new</b></p> <ul style="list-style-type: none"> <li>Giving a bribe is now an offence, punishable by a 7-year prison term.</li> <li>Except when one is forced to give a bribe. But it should be reported within seven days.</li> <li>Bribe is termed 'undue advantage', defined as gratification other than legal remuneration.</li> <li>The trial in cases of bribe and corruption should be completed by the special judge within two years and in case of delays the reasons for the same must be recorded and the total time must not exceed four years.</li> </ul> <p><b>What it was</b></p> <ul style="list-style-type: none"> <li>No specific provision, except as abetment.</li> </ul> <p>It could empower the public to refuse to give a bribe but seven-day limit may not be enough. As to what happens if citizen's report of coercion is not registered by the police is unclear.</p>	<p><b>2 PRE-INVESTIGATION APPROVAL</b></p> <p><b>What is new</b></p> <ul style="list-style-type: none"> <li>Police officer cannot begin probe without prior approval of relevant authority or govt (except when caught red-handed).</li> </ul> <p><b>What it was</b></p> <ul style="list-style-type: none"> <li>No such provision in the Act, but a rule similar to it was struck down by Supreme Court.</li> </ul> <p>Protection formerly available to officials of rank of joint secretary and above (before SC struck it down) is extended to all public servants.</p>
<p><b>4 CRIMINAL MISCONDUCT</b></p> <p><b>What is new</b></p> <ul style="list-style-type: none"> <li>Only be two forms of criminal misconduct.</li> <li>Misappropriation of property entrusted to public servant.</li> <li>Intentionally enriching oneself illicitly.</li> </ul> <p><b>What it was</b></p> <ul style="list-style-type: none"> <li>There were six kinds: omitted ones are taking bribe habitually, getting anything free or at a concession, obtaining pecuniary advantage for oneself or for another without public interest.</li> </ul> <p>This is to protect public servants from being wrongly prosecuted for official decisions. Earlier it was a crime to "obtain advantage to a private party without public interest".</p>	<p><b>3 SANCTION FOR PROSECUTION</b></p> <p><b>What is new</b></p> <ul style="list-style-type: none"> <li>Sanction needed for prosecuting former officials for offences done while in office.</li> <li>Center may notify guidelines for sanction.</li> <li>Decision on request for sanction within 3 months, which may be extended by a month.</li> </ul> <p><b>What it was</b></p> <ul style="list-style-type: none"> <li>Sanction was required under PCA for serving officers only.</li> </ul> <p>Sanction for IPC offences covered both serving and retired officers. Guidelines and time limit may help make sanction process easier.</p> <p><b>5 FORFEITURE OF PROPERTY</b></p> <p><b>What is new</b></p> <ul style="list-style-type: none"> <li>Section introduced for Special Court under this act to attach and confiscate property.</li> </ul> <p><b>What it was</b></p> <ul style="list-style-type: none"> <li>This was not done earlier.</li> </ul> <p>This helps avoid a fresh procedure to confiscate property obtained through corruption, enables court conducting trial to do so itself.</p>

## 8. IMPORTANT CONSTITUTIONAL/ STATUTORY/ EXECUTIVE BODIES IN NEWS

### 8.1. UNION PUBLIC SERVICE COMMISSION

#### Why in news?

The Centre has recently changed its appointment rules to equate Union Public Service Commission (UPSC) members with central government secretaries and not Supreme Court judges, as was the norm earlier.

#### About UPSC

- **Article 315** provides for a Public Service Commission for the Union and a Public Service Commission for each State.
- It is an independent constitutional body. **Articles 315 to 323 in Part XIV of the Constitution** contain elaborate provisions regarding the composition, appointment and removal of members along with the independence, powers and functions of the UPSC.

#### Article 316- Appointment and Term of Office:

- The UPSC consists of a chairman and other members **appointed by the President** of India. The Constitution, without specifying the strength of the Commission has left the matter to the discretion of the President, who determines its composition.
- Further, **no qualifications are prescribed** for the Commission's membership **except** that one-half of the members of the Commission should be such persons who have **held office for at least ten years** either under the Government of India or under the government of a state.
- The Constitution also authorises the **President to determine the conditions of service** of the chairman and other members of the Commission.
- The chairman and members of the Commission hold office for a **term of six years** or until they attain the age of 65 years, whichever is earlier. However, they can relinquish their offices at any time by addressing their resignation to the President. They can also be removed before the expiry of their term by the President in the manner as provided in the Constitution.

**Functions of UPSC:** Under **Article 320** of the Constitution of India, the Commission is, inter-alia, required to be consulted on all matters relating to recruitment to civil services and posts. The functions of the Commission under Article 320 of the Constitution are:

- **Conduct examinations** for appointment to the services of the Union.
- **Direct recruitment** by selection through interviews.
- Appointment of officers on promotion / deputation / absorption.
- Framing and amendment of **Recruitment Rules** for various services and posts under the Government.
- **Disciplinary cases** relating to different Civil Services.
- **Advising the Government** on any matter referred to the Commission by the President of India.

### 8.2. CENTRAL BUREAU OF INVESTIGATION (CBI)

#### Why in News?

Andhra Pradesh and West Bengal have withdrawn the "**general consent**" granted to the Central Bureau of Investigation (CBI), effectively curtailing the agency's powers in the States without prior permission.

#### General Consent

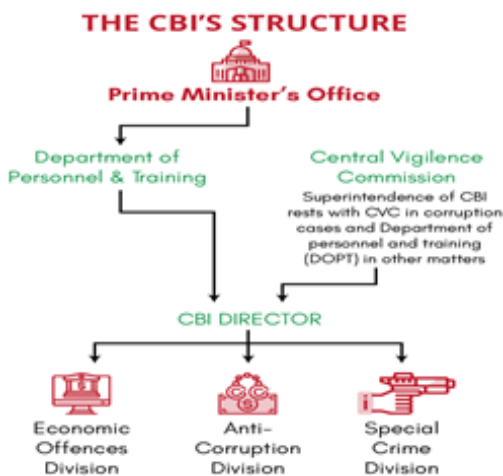
- Given that the CBI has jurisdiction only over central government departments and employees, it can investigate a case involving state government employees or a violent crime in a given state only after that state government gives its consent. Thus, it gets a general consent instead of a case-specific consent to **avoid taking permission each time**.
- The general consent is normally given for periods ranging from six months to a year.

#### More about news

- The CBI which is under the Delhi Special Police Establishment (DSPE) Act, 1946, **will now have to approach the State government for permission** for investigation on a case by case basis.
- It is not the first time. Over the years, several states had also withdrawn consent for some time.

### Central Bureau of Investigation

- It is the **main investigation agency** of the central government for cases relating to corruption and major criminal probes.
- It is **not** a statutory body. It derives its powers to investigate the cases from the **Delhi Special Police Establishment Act, 1946**.
- The Lokpal Act 2013 prescribed that the CBI director shall be appointed on the recommendation of a committee comprising the **Prime Minister, Leader of the Opposition** in the Lok Sabha and **Chief Justice of India or a judge** of the Supreme Court nominated by him.
- The Central Government can authorize CBI to investigate such crime in a State only **with the consent** of the concerned State Government. The Supreme Court and High Courts, however, can order CBI to investigate such a crime anywhere in the country **without the consent** of the State.



### 8.3. COMPETITION COMMISSION OF INDIA

#### Why in news?

Government has constituted a Competition Law Review Committee to review the Competition Act.

#### Competition Commission of India

- It was established under the Competition Act, 2002 for the administration, implementation and enforcement of the Act. The following are the objectives of the Commission.
  - To prevent practices having adverse effect on competition.
  - To promote and sustain competition in markets.
  - To protect the interests of consumers and
  - To ensure freedom of trade

- In April 2018, the Union Cabinet has given its approval for **rightsizing the CCI** from One Chairperson and Six Members (totalling seven) to One Chairperson and Three Members.

### 8.4. CENTRAL INFORMATION COMMISSION

#### Why in news?

A new Chief Information Commissioner was appointed recently.

#### About Central Information Commission

- It was **set up under the Right to Information Act** to act upon complaints from those individuals who have not been able to submit information requests to a Central Public Information Officer or State Public Information.
- It includes **1 Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (IC)** who are appointed by the President of India on the recommendation of a committee consisting of the Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha and a Union Cabinet Minister nominated by the Prime Minister.
- The jurisdiction of the Commission extends over all Central Public Authorities.
- When it comes to the RTI Act, the Central Information Commission is the only appellate authority which may declare a body as public authority if it is convinced that the organisation fits into the criteria for being under the Right to Information Act.

### 8.5. NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

#### Why in news?

The appointments committee of the cabinet appointed the new chairperson of the National Commission for Protection of Child Rights (NCPCR).

#### About NCPCR

- It is a statutory body under the Commissions for Protection of Child Rights (CPCR) Act, 2005 under the administrative control of the Ministry of Women & Child Development.
- The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and

Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. **The Child is defined as a person in the 0 to 18 years age group.**

- The commission consists of the following members to be appointed by the Central Government
  - **A chairperson** who, is a person of eminence and has done an outstanding work for promoting the welfare of children; and
  - **Six members**, out of which **at least two are woman**, from amongst person of eminence, ability, integrity, standing and experience in the following fields
    - ✓ Education;
    - ✓ Child health, care, welfare or child development;
    - ✓ Juvenile justice or care of neglected or marginalized children or children with disabilities;
    - ✓ Elimination of child labour or children in distress;
    - ✓ Child psychology or sociology; and
    - ✓ Laws relating to children.

## 8.6. NATIONAL COMMISSION FOR SAFAI KARMACHARIS (NCSK)

### Why in news?

Recently, government approved the proposal for extension of tenure of the National Commission for Safai Karmacharis (NCSK) for next three years.

### About the Commission

- It was constituted in 1994 as a **statutory body** under National Commission for Safai Karmacharis Act, 1993.
- With the lapse of this Act from 2004, the Commission is **now acting as a non-statutory body** of the **Ministry of Social Justice and Empowerment** whose tenure is extended from time to time through Government Resolutions.
- It serves as a **recommendatory body to Central Government**, regarding specific programmes or action towards elimination of inequalities in status, and opportunities for Safai Karmacharis.
- The commission is also monitoring the implementation of **The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013.**

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## 9. IMPORTANT ASPECTS OF GOVERNANCE

### 9.1. IMPORTANT SECTIONS OF RIGHT TO INFORMATION ACT IN NEWS

Section	Detail
Section 2(h)	<p>It states that “<b>public authority</b>” means any authority or body or institution of self-government established or constituted-</p> <ul style="list-style-type: none"> <li>• By or under the Constitution;</li> <li>• By any other law made by Parliament;</li> <li>• By any other law made by state legislature;</li> <li>• By notification issued or order made by the appropriate Government, and includes any— <ul style="list-style-type: none"> <li>○ Body owned, controlled or substantially financed (The RTI Act does not define substantial financing. Consequently, courts are often required to decide whether a particular form and quantum of financial aid constitutes substantial finance.)</li> <li>○ Non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.</li> </ul> </li> </ul>
Section 4	<ul style="list-style-type: none"> <li>• It states that, every government department has to <b>voluntarily disclose information</b> through annual reports and websites.</li> <li>• It mandates that public authorities shall maintain all its records duly catalogued and indexed in a manner and form which facilitate the RTI Act.</li> </ul>
Section 8(1)	<p>It mentions <b>exemptions against furnishing information</b> under the RTI Act. These include provisions related to- national security, privacy, trade secrets, law enforcement and judicial process etc.</p>
Section 8(2)	<p>It provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if <b>public interest</b> in disclosure overweighs the harm to the protected interest.</p>

### 9.2. CENTRAL CIVIL SERVICES (CONDUCT) RULES, 1964

#### Why in News?

Several provisions of **Central Civil Services (Conduct) Rules, 1964** (CCS (conduct) rules, 1964) are often used against public servants which restricts their fundamental rights.

#### Civil Servants and Fundamental Rights

- Subject to the power of Parliament, **under Article 33**, to modify the fundamental rights in their application to members of the Armed Forces and the Police Forces, the fundamental rights guaranteed by the constitution are in favour of all ‘citizens’, which obviously include public servants.
- **While a public servant possesses the fundamental rights as a citizen, the State also possesses, under the Proviso to Article 309, the power to regulate their ‘conditions of service’.**

#### Background about the CCS (Conduct) rules, 1964

- **CCS (conduct) rules prescribes a set of Do’s and Don’ts:** These rules require them to maintain absolute integrity, devotion to duty and political neutrality which are essential requirement of any public servant but certain prohibitions may come in conflict with their fundamental rights. For instance -
  - Prohibits government servants to take part in the editing or management of any newspaper or periodical.
  - Prohibits speculation in stock, share or any other investment except occasional investments made through stock brokers.
  - Public servants are barred from accepting gifts, buying and selling properties, making commercial investments, promoting companies and accepting commercial employment after retirement.
- **Rule 9 of the CCS (Conduct) Rules, 1964:** Rule 9 prohibits any public servant to publish in his own name or anonymously or pseudonymously any statement of fact or opinion which has the effect of an **adverse criticism** of any current or recent policy or action of the Central Government or a State Government.

### 9.3. WRONGFUL PROSECUTION

#### Why in News?

Recently, Law Commission of India (LCI) submitted its report titled “**Wrongful Prosecution (Miscarriage of Justice): Legal Remedies**”.

#### Related information - International Covenant on Civil and Political Rights, 1966

- It is one of the key documents dealing with the miscarriage of Justice.
- It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.

- It is part of the **International Bill of Human Rights**, along with the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights (UDHR).

### Background

- **India has one of the highest under trial populations in the world:** According to National Crime Records Bureau's (NCRB) annual Prison Statistics India (PSI) report 2015, there were more than 4.19 lakh prisoners across India out of which 67.2% were under trials (i.e. people who have been committed to judicial custody pending investigations or trial).

### Current provisions provide for following remedies

Currently three categories of court-based remedies with respect to miscarriage of justice are available to a victim:

- **Public law remedy:** it is treated as a violation of fundamental rights under **Article 21** (the right to life and liberty) and **Article 22** (protection against arbitrary arrests and illegal detention, etc.) of the Constitution, that invokes the writ jurisdiction of Supreme Court and High Courts under **Article 32 and 226** respectively.
- **Private law remedy:** it exists in the form of **civil suits against the state** for monetary damages on account of **tortious acts** of public servants- especially negligence by a public servant in the course of employment. Both public and private law remedies are victim centric in nature.
- **Criminal law remedy:** it holds the wrong doer accountable i.e. proceedings with criminal action against the concerned officers of the State for their misconduct.

## 9.4. WITNESS PROTECTION SCHEME

### Why in News?

Recently Supreme Court asked the states to adopt Witness Protection Scheme.

### Related Information

**Art. 141** - law declared by the Supreme Court shall be binding on all courts within the territory of India.

**Art. 142**- Under this, SC can grant appropriate relief for doing **complete justice** (where there is some manifest illegality, want of jurisdiction or where some palpable injustice is shown to have resulted). Curative petition owes its origin to this article.

### More on News

- **Supreme Court under Article 141/142 of the Constitution of India has provided legal sanctity** to the scheme until Parliament/state legislature enacts a law on the matter.
- **Although National Investigation Agency (NIA) act** provides for witness protection, the scheme has extended it to the witnesses in all other cases as per the threat perception. A Witness Protection Bill is still pending.
- In **Zahira sheikh vs. State of Gujarat, SC** observed that witness protection is necessary for free and fair trial.

### About the Witness Protection Scheme

- The scheme aimed to enable a witness to depose fearlessly and truthfully. Under it, witness protection may be as simple as providing a police escort to the witness up to the courtroom or, in more complex cases involving an organised criminal group, taking extraordinary measures such as offering temporary residence in a safe house, giving a new identity, and relocation at an undisclosed place.
- It has provisions related to
  - procedure to be followed for witness protection,
  - use of technology like in-camera trials
  - Witness Protection Fund etc.



## 10. MISCELLANEOUS

### 10.1. YUVA SAHAKAR-COOPERATIVE ENTERPRISE SUPPORT AND INNOVATION SCHEME

#### Why in News?

Union Agriculture Minister launched **National Cooperative Development Corporation (NCDC)**'s new scheme '**Yuva Sahakar-Cooperative Enterprise Support and Innovation Scheme**'.

#### Cooperatives in India

The **97th Constitutional Amendment Act** of 2011 gave a **constitutional status and protection to co-operative societies**. It made the following three changes in the constitution:

- It made the **right to form co-operative societies a fundamental right (Article 19(1)(c))**.
- It included a **new Directive Principle of State Policy** on promotion of cooperative societies (**Article 43-B**).
- It added a **new Part IX-B "The Cooperative Societies"** (Articles 243-ZH to 243-ZT) which contains the following provisions:
  - The **state legislature** may make provisions for the **incorporation, regulation and winding-up** of co-operative societies based on the principles of voluntary formation, democratic member control, member-economic participation and autonomous functioning.
  - The board shall consist of such number of directors as may be provided by the **state legislature**. But, the **maximum number of directors** of a co-operative society shall **not exceed twenty-one**.
  - The **state legislature** shall provide for the **reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women** on the board of every co-operative society having members from such a category of persons.

#### About Yuva Sahakar

- **Purpose:** To cater to the needs and aspirations of the youth, attracting them to cooperative business ventures. It would encourage cooperatives to venture into new and innovative areas.
- **CSIF fund:** The scheme will be **linked to a 'Cooperative Start-up and Innovation Fund (CSIF)'** created by the NCDC with an annual outlay of **Rs 100 crore** and it has **special incentive for cooperatives of North Eastern region, Aspirational Districts and cooperatives with women/SC/ST/PwD members**.

- **Eligibility:** All types of cooperatives in operation for **at least one year and having positive net-worth** are eligible.

#### About NCDC

- It is the sole **statutory organisation** (under **Ministry of Agriculture & Farmers Welfare**) functioning as an apex financial and developmental institution exclusively **devoted to cooperative sector**.
- It strengthens and promotes programmes across sectors relating to agriculture and allied fields like dairy, poultry, livestock, fisheries, cotton ginning and spinning, sugar and notified services like hospitality, transport, rural housing, hospitals/health care etc.

### 10.2. INDIA URBAN DATA EXCHANGE (IUDX)

#### Why in News?

**Ministry of Housing and Urban Affairs** has begun the development of **Indian Urban Data Exchange (IUDX)** for the **Smart Cities Mission**.

#### More on news

- **India Urban Data Exchange** is a **platform** intended to facilitate easy and efficient exchange of data **among various stakeholders of Smart Cities** by interconnecting disparate urban data platforms and enabling co-creation and innovation.
- **Smart Cities Mission** aims to develop **100 citizen-friendly and sustainable cities using technological solutions** across the country.
  - The mission will spend over Rs 16,000 crore — 8 percent of the total Rs 2.04 lakh crore investment — on information technology
  - After digitising municipal operations, such as waste flow, water supply, traffic patterns, and surveillance systems, the aim is to feed all data into an **Integrated Command and Control Center (ICCC)**.
- **Open Smart Cities of India (OSCI)**, a non-profit, start-up company with central and state government officials, Smart City officials, researchers, and industry players to set up and scale IUDX, is also proposed.

**ICCC**

- It is a center where the entire city's information is collected, viewed and analysed through a City operations center application.
- This system would control street lights, parking lights, parking, traffic (including violations and congestions), waste management, water supply etc. through sensors.
- As of June 2018, ICCCs were operational under 10 smart cities in India with the latest being Naya Raipur.

**10.3. CITY DATA INITIATIVE****Why in news?**

Vijayawada has entered the City Data for India Initiative recently.

**About City Data for India initiative**

- The **Tata Trusts and the World Council on City Data (WCCD)** have established a major partnership for the Initiative.
- It aims to help “participating cities to achieve **WCCD ISO 37120 city data certification**.”
- It was launched in 2016 with three cities – **Pune, Surat and Jamshedpur** – the first Indian cities to achieve WCCD ISO 37120 Certification.
- It contributes to improved infrastructure services, inclusive prosperity and quality of life for millions of Indian urban citizens

**About WCCD certification**

- This certification is the **first international standard published for globally-comparable city data**, providing a comprehensive set of indicators to measure a city's social, economic and environmental performance in relation to other cities.
- It employs **100 indicators** spanned across **17 themes** ranging from economy education, environment to health, safety and fire & emergency response.
- **WCCD Certification levels (Aspirational, Bronze, Silver, Gold, Platinum)** are based on the number of indicators reported by the city.
- Once a city is ISO 37120 certified, they are included in **WCCD's Global Cities Registry**.
- The data pertaining to the city is then available on WCCD's Open City Data Portal and can be accessed by civic bodies, state and central authorities, international bodies and the public.

**The World Council on City Data (WCCD)**

- It is the **global leader in standardized city data** - creating smart, sustainable, resilient, and prosperous cities.

- The WCCD **hosts a network of innovative cities** committed to improving services and quality of life with open city data and provides a consistent and comprehensive platform for standardized urban metrics.
- The WCCD is a **global hub for creative learning partnerships** across cities, international organizations, corporate partners, and academia to further innovation, envision alternative futures, and build better and more liveable cities.

**10.4. MISSION SATYANISHTHA**

- **Mission Satyanishtha** was launched recently by **Ministry of Railways**.
- The mission aims at **sensitizing all railway employees** about the need to adhere to good ethics and to maintain high standards of integrity at work.

**10.5. CENTRE FOR RESEARCH AND PLANNING**

- The Supreme Court's in-house think-tank, **Centre for Research and Planning**, was recently unveiled by the Chief Justice of India.
- Its main mandate would be **to carry out cutting-edge research into fundamental jurisprudence and doctrines of law**.

**10.6. DRAFT CAPE TOWN CONVENTION BILL, 2018**

- Recently the **Ministry of Civil Aviation** released the draft Bill that seeks to implement the **Cape Town Convention** (Convention on International Interests in Mobile Equipment), and Protocol (Protocol to the Convention on Matters Specific to Aircraft Equipment) in India.
- The Cape Town Convention was adopted in 2001 under the joint auspices of **International Civil Aviation Organisation (ICAO)** and **International Institute for the Unification of Private Law (UNIDROIT)**.
- The Convention is general in nature and is meant to be applied to **three sectors**, viz. Aviation, Railways and Space Equipment.
- **India** became a party to the convention/Protocol in July, 2008. As of 2016, there are 65 Parties to the Convention.

**The International Civil Aviation Organization**

- It is a **UN specialized agency**, established by States in 1944 to manage the administration and governance of the **Convention on International Civil Aviation (Chicago Convention)**.
- It aims to reach consensus on international civil

aviation Standards and Recommended Practices (SARPs) and policies in support of a safe, efficient, secure, economically sustainable and environmentally responsible civil aviation sector.

#### About UNIDROIT

- It is an **independent intergovernmental Organisation** to study needs and methods for modernising, harmonising and co-ordinating private and in particular commercial law as between States and groups of States and to formulate uniform law instruments, principles and rules to achieve those objectives.

### 10.7. PATHALGADI MOVEMENT

#### Why in news?

In recent times, many Adivasi villages in Jharkhand have put up giant plaques (Pathalgadi) declaring their **gram sabha as the only sovereign authority and banning 'outsiders' from their area.**

#### More on news

- Pathalgadis **proclaim allegiance to the Constitution** but **reject any authority except their gram sabhas** (village assemblies).
- Pathalgadis have their presence in Jharkhand, Chhattisgarh, Odisha and parts of West Bengal and Madhya Pradesh.

### 10.8. UN GLOBAL MEDIA COMPACT

#### Why in News?

Recently more than 30 organizations from across the world including India's **Ministry of Information and Broadcasting** have come together to form a global media compact.

#### More about the compact

- It is an initiative of the **United Nations**, in collaboration with the UN Foundation.
- It is aimed at advancing awareness regarding Sustainable Development Goals (SDGs) to be achieved by 2030.
- It seeks to inspire organisations around the world to create content partnerships with the UN and leverage their resources and creative talent to advance the Goals.

### 10.9. 'BEYOND FAKE NEWS' PROJECT

#### Why in News?

UK-based broadcasting channel BBC launched the **Beyond Fake News project.**

#### More on news

- The project aimed at **fighting back against disinformation and fake news** with a major focus on global media literacy.
- There is **no specific law in India to deal with fake news.**
- Freedom of speech can only be curtailed as per the **limited circumstances** set out in **Article 19(2)** of the Constitution of India – and **falsehood isn't one of those 'reasonable restrictions.'**

#### Bodies involved in eliminating fake news

- **Press Council of India:** It is an **autonomous, statutory, quasi-judicial body** with an aim to preserve the freedom of the press and improve the standards of press in India.
- **Broadcasting Content Complaint Council (BCCC):** an **independent self-regulatory body** set-up by the Indian **Broadcasting Foundation** in 2011, in consultation with the Ministry of Information and Broadcasting.
- **Indian Broadcast Foundation (IBF):** premium apex organization of television broadcasters.
- **News Broadcasters Association (NBA):** represents the private television news and current affairs broadcasters in India

### 10.10. WORLD GOVERNMENT SUMMIT

- It was held in **Dubai, UAE** recently.
- It is a global platform dedicated to shaping the future of governments worldwide.
- Each year, the Summit sets the agenda for the next generation of governments, focusing on how they can harness innovation and technology to solve universal challenges facing humanity.

### 10.11. E-GOVERNANCE INITIATIVES IN NEWS

E-governance initiatives	Feature
National e-Vidhan Application	<ul style="list-style-type: none"> <li>It is an initiative by <b>Ministry of Parliamentary Affairs</b>.</li> <li>It aims to make all the Legislatures of the country paperless by making the proceedings of the Houses digital.</li> </ul>
Online Assurances Monitoring System (OAMS)	<ul style="list-style-type: none"> <li>It has been developed by the <b>Ministry of Parliamentary Affairs</b>.</li> <li>During the course of answers to Questions or during debates, various assurances - in the form of promises, undertakings or other such forms of expressions - are given by Ministers on the floor of the House.</li> <li>Such assurances are given due to non-availability of information, at that point of time, to meet the queries or points raised by the Members.</li> <li>An assurance given to the Lok/Rajya Sabha is required to be fulfilled within a <b>period of three months from the date of assurance</b>. An extension must be approved by the Committee on Government Assurances, Lok/Rajya Sabha.</li> <li>The <b>Ministry of Parliamentary Affairs is the coordinating agency</b> within the Government for its interaction with the Parliament.</li> <li>One of the specific functions assigned to the Ministry under the Government of India (Allocation of Business) Rules, 1961 is the <b>implementation of assurances</b> given by Ministers in Parliament.</li> <li>With the inauguration of the OAMS, all assurances being culled out by the Ministry of Parliamentary Affairs through e-Office would be reflected on this system and various Ministries/Departments, Lok Sabha Secretariat and Rajya Sabha Secretariat would communicate for all purposes through this system.</li> </ul>
cVigil	<ul style="list-style-type: none"> <li>It is android based mobile application launched by the <b>Election Commission of India</b>.</li> <li>It enables citizens to share proof of malpractices by political parties, their candidates and activists when the Model Code of Conduct is in</li> </ul>

	<p>place in the run-up to polls.</p> <ul style="list-style-type: none"> <li>The vigilant citizen has to click a picture or record a video of upto two minutes' duration of the scene of violations of the model code. The photo or video is to be uploaded on the app.</li> </ul>
iGOT (Integrated Government Online Training Programme)	<ul style="list-style-type: none"> <li>It has been launched by the <b>Department of Personnel and Training, Ministry of Personnel, Public Grievances &amp; Pensions (DoPT)</b>.</li> <li>This <b>online training programme</b> will be targeted to the <b>requirements of officers</b> and training inputs will be available <b>on site</b> and on <b>flexitime basis</b>.</li> <li>It would act as a <b>single point of access to the repository</b> of training resources to numerous training institutions.</li> </ul>
PAiSA- Portal for Affordable Credit and Interest Subvention Access.	<ul style="list-style-type: none"> <li>It is a web portal launched by the <b>Ministry of Housing</b>.</li> <li>It has been designed and developed by Allahabad Bank and is expected to be joined by all states, commercial banks, RRBs and Cooperative Banks.</li> <li>It <b>acts as a centralized electronic platform</b> for processing interest subvention on bank loans to beneficiaries under <b>Deendayal Antyodaya Yojana – National Urban Livelihoods Mission (DAY-NULM)</b>.</li> <li>It will directly link government with the beneficiaries to ensure greater transparency and efficiency in delivery of services.</li> </ul>
Aapoorti app	<ul style="list-style-type: none"> <li>It is a part of digitization of Indian Railways supply chain network under its e-procurement system i.e. IREPS.</li> <li>It will provide data and information about e-tendering and e- auctioning activities of Indian railways.</li> <li>It will help to bring ease of doing business, transparency and efficiency in Indian Railways.</li> </ul>
Emergency Response Support System (ERSS)	<ul style="list-style-type: none"> <li>Recently Union Home Minister launched ERSS.</li> <li>Himachal Pradesh is the first state to launch <b>pan-India single emergency number '112'</b> under ERSS which will connect to Police, Fire, Health and other helplines through an Emergency Response Centre in the State.</li> <li>Central Government has allocated Rs 321.69 crore under <b>Nirbhaya</b></li> </ul>

	<p><b>Fund</b> for implementation of ERSS project across the country.</p> <ul style="list-style-type: none"> <li>A <b>SHOUT feature</b> has been introduced in '112 India' mobile app <b>exclusively for women</b>.</li> </ul>
Tele Law Initiative and Nyaya Bandhu	<ul style="list-style-type: none"> <li>Tele Law app aims to <b>Mainstream Legal Aid through Common Service Centres</b>.</li> <li>It will enable the <b>Para Legal Volunteers</b> of NALSA to perform on field pre – registration of cases with a facility to seek appointment from the Panel lawyer on preferred date and time, in <b>coordination with Village Level entrepreneur (VLE) at the CSC</b>.</li> <li><b>Nyaya Bandhu</b> app aims for solidifying the <b>pro bono</b> (providing legal services without charge) culture in the country. <ul style="list-style-type: none"> <li>It provides a platform to <b>connect the registered eligible beneficiaries with the practicing advocates</b> who are willing to volunteer their time and money in providing their services as a pro bono.</li> </ul> </li> <li>Both initiatives are in pursuance of Constitutional commitment under <b>Article 39A</b></li> </ul>

	<p>Bengaluru based not for profit think tank called <b>Public Affairs Centre</b>.</p>
<b>United Nations E-Government Survey 2018</b>	<ul style="list-style-type: none"> <li>The UN releases this Survey <b>every two years</b> and this year's theme is '<b>Gearing E-Government to Support Transformation towards sustainable and resilient societies</b>'.</li> <li>It maps how digital technology and innovations are impacting the Public Sector and changing people's everyday life.</li> <li>The Survey includes the <b>E-Government Development Index (EGDI)</b> which assesses progress in e-government development at the national level. It is a composite index based on three indices: <ul style="list-style-type: none"> <li>One-third is derived from a <b>Telecommunications Infrastructure Index (TII)</b> based on data provided by the International Telecommunications Union (ITU).</li> <li>One-third from a <b>Human Capital Index (HCI)</b> based on data provided by the UNESCO.</li> <li>One-third from the <b>Online Service Index (OSI)</b> based on data collected from an independent survey questionnaire.</li> </ul> </li> <li>The <b>e-participation index (EPI)</b> is derived as a supplementary index to the UN E-Government Survey which focuses on e-information sharing, e-consultation with respect to policies and services, engagement in decision-making processes.</li> <li><b>Denmark</b> is the world leader in E-Government index while <b>India is at 96th rank</b>. On e-participation index, India ranks 15<sup>th</sup> and has emerged as sub-region leader.</li> </ul>
The Global State of Democracy Index	<ul style="list-style-type: none"> <li>The International Institute for Democracy and Electoral Assistance (IDEA) released its report titled "The Global State of Democracy Index" (GSoD).</li> <li><b>The International Institute for Democracy and Electoral Assistance (International IDEA)</b> is an intergovernmental organization that supports sustainable democracy institutions and processes worldwide.</li> <li>International IDEA is a <b>Permanent Observer to the United Nations</b>.</li> </ul>
<b>Democracy</b>	<ul style="list-style-type: none"> <li>It was recently released which</li> </ul>

### 10.12. REPORTS AND INDEXES

Index and Report	Details
<b>Corruption Perception Index</b>	<ul style="list-style-type: none"> <li>It is published by <b>Transparency International</b>.</li> <li>India's has improved from 81st position (2017) to <b>78th position (2018)</b>.</li> <li>The Index ranks countries on a score of 1-100 where zero is "highly corrupt" and 100 is "very clean" based on how corrupt their public sector is perceived to be.</li> <li>Transparency International is an <b>international NGO based in Berlin</b>. <ul style="list-style-type: none"> <li>It also publishes Global corruption Barometer.</li> <li>Recently LocalCircles in collaboration with Transparency International India has released the India Corruption Survey, 2018.</li> </ul> </li> </ul>
<b>The Public Affairs Index 2018</b>	<ul style="list-style-type: none"> <li>It has been released recently in which Kerala has emerged as the best-governed state for the third consecutive year. <ul style="list-style-type: none"> <li><b>Bihar</b> is the last ranked state (30th).</li> </ul> </li> <li>It is annually released by a</li> </ul>

Index	<p>ranked India at 41st position and classified it as 'flawed democracy'.</p> <ul style="list-style-type: none"> <li>This index is published annually by London based newspaper The Economist.</li> <li>The Economist Intelligence Unit also released Inclusive Internet Index. <ul style="list-style-type: none"> <li>India ranked 47<sup>th</sup> in <b>Inclusive Internet Index 2019</b>.</li> </ul> </li> </ul>
Varieties of Democracy Report for 2018	<ul style="list-style-type: none"> <li>Released by varieties of Democracy Institutes. The reports provides the most sweeping global examination of democracy.</li> <li>India is indicted as a <b>"backslider"</b> since the <b>quality of democracy has declined</b> over the past ten years and sharply declined since 2014</li> <li><b>Different Categories for Classification</b> <ul style="list-style-type: none"> <li><b>Liberal Democracy:</b> where every citizen has equal rights and access to the law; there's strong freedom of expression; good institutional systems to deliver justice, freedom of association, participatory elections, etc.</li> <li><b>Electoral Democracy:</b> Here citizens have the vote but certain categories of people such as women and poor suffer exclusion and lower standards apply when it comes to human rights, freedom of expression and association, etc. <b>India qualifies as an Electoral Democracy.</b></li> <li><b>Electoral Autocracy:</b> where citizens have the vote but not much else. Repression, censorship and institutionalised intimidation are visible in such places.</li> <li><b>Closed Autocracy:</b> In a closed autocracy is totally free of being answerable to its people, and their rule is carried out with fear and intimidation.</li> </ul> </li> </ul>
World Trends in Freedom of Expression and Media Development Global Report 2017/2018	<ul style="list-style-type: none"> <li>The Report is published by the <b>UNESCO</b> on the occasion of World Press Freedom Day (3 May).</li> <li>Press freedom is examined here in <b>four of its key dimensions: (i) media freedom, (ii) media pluralism, (iii) media independence and (iv) safety of journalists.</b></li> </ul>

### 10.13. AWARDS

Awards	Details
India Smart Cities Awards 2018	<ul style="list-style-type: none"> <li>Nine awards in <b>three categories</b>, i.e., Project Award, Innovative Idea Award and City Award have been announced under the <b>India Smart Cities Awards</b>.</li> <li>India Smart Cities Award were launched by Ministry of Housing and Urban Poverty Alleviation with an objective to reward cities, projects and innovative ideas, promoting sustainable development in cities.</li> <li><b>Eligible Participants were Smart Cities only</b>, where respective ULBs / Smart City SPVs were to submit proposals.</li> <li><b>Innovative Idea Award</b> <ul style="list-style-type: none"> <li>Recognize exceptional innovation across 7 Urban themes- Governance, Built environment, Social Aspects, Culture and Economy, Urban Environment, Transportation and Mobility, Water and Sanitation- contributing to the successful transformation of cities</li> <li><b>Bhopal and Ahmedabad was selected for 'Innovative Idea' Award in 2018.</b></li> </ul> </li> <li><b>Project Award</b> <ul style="list-style-type: none"> <li>Given to individual Completed projects (as on 1<sup>st</sup> April 2018).</li> </ul> </li> <li><b>City Award</b> <ul style="list-style-type: none"> <li>Proposals submitted for 'Project Award' and 'Innovative Idea Award' and project implementation considered for evaluation.</li> <li><b>Surat Smart City was selected for this award in 2018.</b></li> </ul> </li> </ul>
Magsaysay Awards	<ul style="list-style-type: none"> <li>Two Indian nationals, <b>Bharat Vatwani</b> and <b>Sonam Wangchuk</b> were given the Ramon Magsaysay award.</li> <li>Established in 1957, the Ramon Magsaysay Award is Asia's highest honor.</li> <li>It celebrates the memory and</li> </ul>

	<p>leadership example of the third Philippine president, Ramon Magsaysay.</p> <ul style="list-style-type: none"> <li>• Bharat Vatwani has dedicated his life for <b>rescuing mentally ill people</b> from the streets of India and treatment through his Shraddha Rehabilitation Foundation.</li> <li>• Sonam Wangchuk has been recognised for <b>improving the life opportunities of Ladakhi youth</b>.</li> </ul>
<p><b>Commonwealth Association for Public Administration and Management (CAPAM) Awards</b></p>	<ul style="list-style-type: none"> <li>• It is given by <b>CAPAM, a non-profit association</b> located across the Commonwealth. <ul style="list-style-type: none"> <li>○ Department of Administrative Reforms and Public Grievances (DARPG), Ministry of Personnel, Public Grievances and Pensions is an institutional member of CAPAM.</li> </ul> </li> <li>• <b>In Innovation Incubation category, the award is given to Unnayan Banka (BIHAR)</b> which aims to provide “Quality Education for all”.</li> <li>• <b>In Innovation in Public Service Management category, Unified Agriculture Markets (Karnataka)</b> was given the award.</li> </ul>

<p><b>ISSA Good Practice Award, 2018</b></p>	<ul style="list-style-type: none"> <li>• <b>The Employees’ State Insurance Corporation (ESIC) has been awarded with ‘ISSA Good Practice Award, 2018’ at “Regional Social Security Forum for Asia and the Pacific” held recently.</b></li> <li>• International Social Security Association (ISSA) is <b>international organization for social security institutions, government departments and agencies. It was founded under the auspices of International Labour Organisation.</b></li> </ul> <p>About ESIC</p> <ul style="list-style-type: none"> <li>• <b>It is a statutory, autonomous corporation under</b> ministry of Labour and Employment <b>Established in 1948.</b></li> <li>• <b>It implements medical and cash benefits to employee of organised sector against the events of sickness, maternity, disablement and death due to employment injury.</b></li> <li>• <b>Applicable to</b> all the States except Manipur, Sikkim, Arunachal Pradesh and Mizoram.</li> <li>• <b>Mandatory for non-seasonal factories employing 10 or more persons and establishments employing 20 or more persons in certain states.</b></li> <li>• <b>Social security coverage over Shops, hotels, restaurants, cinemas including preview theatres, road-motor transport undertakings and newspaper and Private Medical and Educational institutions</b></li> </ul>
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