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CONTENT

LAWS2

India's Nuclear Liability Law.....	2
India, that is, Bharat.....	2
Marital Rape.....	3
Internet shutdowns in India.....	3
Uniform Civil Code.....	4
Online Gaming – Game of chance vs. Game of skill.....	4
Digital Advertisement Policy of 2023.....	6
Bharatiya Nagarik Suraksha Sanhita (BNSS) Bill 2023.....	6
National Capital Territory of Delhi.....	8
Merely Liking a Post is not an Offence Under the IT Act.....	8
Advocates Amendment Act, 2023.....	9
Indian Succession Act of 1925.....	9
Sub-categorization within Castes.....	10
CASTE CENSUS IN BIHAR.....	11
Rights of the unborn child.....	12
Right to Repair.....	12
LGBTQIA+ Rights in India.....	13
Same-sex marriage cannot be legalized.....	14

JUDICIARY.....15

Extra-Judicial Killings (EJK).....	15
Zero FIR.....	15
Mercy Petition.....	15
Article 142 of the Constitution.....	16
Cognizable Offences & FIR.....	16
Kesavananda Bharati Judgment.....	17
Ninth Schedule.....	17
Forum Shopping.....	18
Default Bail.....	18
Advocate-on-Record (AoR).....	19
Designation of Senior Advocates.....	20
Third Phase of e-Courts Project.....	20
FASTER 2.0 portal and e-SCR portal.....	20
Regional Languages in Court.....	21
The Article 370.....	21
Constitutional Bench.....	22
All India Judicial Services.....	23
Lok Adalat.....	25

EXECUTIVE.....25

Role of Governors in Legislature.....	25
---------------------------------------	----

Delimitation Commission.....	27
------------------------------	----

LEGISLATIVE.....27

No Confidence Motion.....	27
---------------------------	----

Adjournment Motion.....	29
-------------------------	----

Lok Sabha Ethics Committee.....	29
---------------------------------	----

Parliamentary privilege.....	30
------------------------------	----

Mixed Member Proportional System.....	30
---------------------------------------	----

Special Session of the Parliament.....	30
--	----

Urban Local Bodies.....	31
-------------------------	----

ELECTIONS.....31

Criminalization of Politics.....	31
----------------------------------	----

Splits in Political Parties.....	32
----------------------------------	----

Lowering the age of contesting elections.....	33
---	----

Election Commission's power to regulate Political Parties.....	33
--	----

Simultaneous Elections.....	34
-----------------------------	----

MISC.....34

Violence in Manipur.....	34
--------------------------	----

Sports Governance in India.....	35
---------------------------------	----

The Commission of Railway Safety (CRS).....	35
---	----

Knowledge Sharing Platform for Highway Development.....	35
---	----

National Training Conclave.....	35
---------------------------------	----

Government e-Marketplace.....	36
-------------------------------	----

Digital birth certificates.....	36
---------------------------------	----

Multiple entry and exit options under NEP.....	37
--	----

Social Audit Unit of MGNREGS.....	37
-----------------------------------	----

POSH Act.....	38
---------------	----

Formation of Districts (Rajasthan).....	38
---	----

Sutlej Yamuna Link (SYL) canal issue.....	39
---	----

Habitat Rights for Baiga Tribal Group.....	39
--	----

CARA, India's Adoption Regulation Body.....	40
---	----

Use of Donor Gametes through Surrogacy.....	40
---	----

"One Nation, One Student ID"– APAAR ID.....	41
---	----

Universal Declaration of Human Rights @ 75.....	41
---	----

Constitution Day - November 26.....	42
-------------------------------------	----

Truth and Reconciliation Commission.....	42
--	----

Amplifi 2.0 Portal.....	42
-------------------------	----

Alderman.....	43
---------------	----

Prison Deaths.....	43
--------------------	----

LAWS

India's Nuclear Liability Law

News Excerpt:

Several issues in the Civil Liability for Nuclear Damage Act 2010 have caused delays in the construction of six nuclear

International Convention

- Two key international conventions are:
 - **Vienna Convention on Civil Liability for Nuclear Damage**
 - **Convention on Supplementary Compensation (CSC) for Nuclear Damage**
- India ratified the convention in 2016.

power reactors in Maharashtra's Jaitapur, which is envisaged as the world's biggest nuclear power generation site.

The legal dimension of Civil Nuclear Liability

- Civil nuclear liability is a check that ensures that in case of any nuclear accident, adequate compensation is made available to victims and defines the liability of various stakeholders.
- The government of India enacted the **Civil Liability for Nuclear Damage Act (CLNDA) in 2010** to provide a speedy compensation mechanism for victims of nuclear accidents.

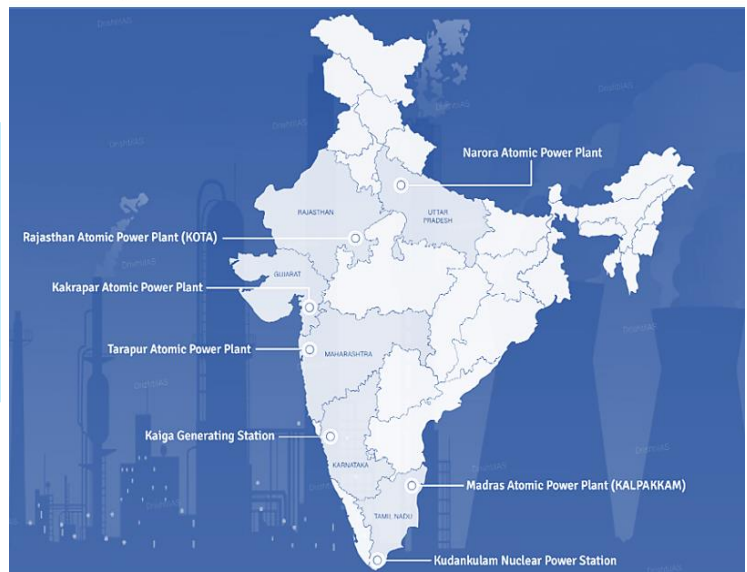
Issues with Suppliers Liability Clause

- Under Indian laws, only suppliers can be asked to pay damages.
- Suppliers have unlimited liability under CLNDA as, unlike the operator, the compensation of a supplier is not fixed.
- The absence of a comprehensive definition of the types of nuclear damage could allow civil liability claims to be brought against the operator and suppliers through other civil laws.
- Criminal liability can be pursued against the operator and the supplier wherever applicable.

Other issues in the Law

- ✓ Capping on compensation is not scientific, as the extent of damages cannot be ascertained.
- ✓ The operator of a nuclear plant in India is State itself and therefore in case of any disaster, the ultimate cost will be borne by common taxpayers.
- ✓ There is no provision for additional costs for expensive processes such as cleaning and safe disposal of nuclear waste.
- ✓ India takes supplies from many foreign suppliers, which are foreign entities according to Indian Law. Indians can't move to a foreign court to seek compensation.

Operational Nuclear Plant in India



India, that is, Bharat

News Excerpt:

The Union Government has decided to use Bharat instead of India in some official communication and documents. For instance, Rashtrapati Bhawan's invitation to G20 guests had the word "**The President of Bharat**".

- **Article 1** of the Indian Constitution mentions our country as '**India, that is Bharat**' and a '**Union of States**'.
- In 2015, the government told the Supreme Court that the Constituent Assembly had "**deliberated extensively**" before adopting Article 1 and that "there is no change in the circumstances to consider any change in Article 1 of the Constitution of India".
- In 2020, the Supreme Court dismissed a PIL seeking to remove India from the Constitution and retain only Bharat to ensure the citizens of this country get over the colonial past. The court stated that **India is already called Bharat in the Constitution itself**.
- Almost **10 countries** have undergone the process of changing their names, with Thailand, Iran, Sri Lanka, Myanmar and Turkiye being among the few.

Constitution and Government aspects:

- **Article 1** declares that all the various entities comprising the country will come together as one nation, preserving the territorial integrity and sovereignty of India. It acknowledges that India, that is, Bharat, shall be the "Union of States". It also recognises both "India" and "Bharat" as the country's legitimate names.

- The English version of the **Preamble** starts with “We the people of India...” while the Hindi version uses the word “Bharat”.
- Also, the IITs, IIMs, RBI, ISRO, Indian Railways, etc. all use “**India**” in their English names while “**Bharatiya**” in their Hindi names.

Procedure to change the name:

- If the government decides to make **only “Bharat”** the **official name** of the country, it will need to introduce a **bill to amend Article 1** of the Constitution.
- **Article 368** provides the framework for **amending the Constitution**. It allows amendments through **two distinct processes** – a **simple majority** amendment and a **special majority** amendment.
- A special majority is required to change the name. This necessitates the **approval of at least two-thirds** of the **members** present and voting in both Houses of Parliament.

Marital Rape

News Excerpt:

Recently, the Supreme Court said that it would list a batch of petitions pertaining to matters related to marital rape.

About:

- Marital rape refers to **unwanted intercourse** by a man on his wife obtained **by force, threat of force or physical violence** or when she is **unable to give consent**.
- According to data from the National Family Health Survey-5 (NFHS-5), **one in every 25 women in India** reported being **subjected to sexual violence** by her husband.
- In India, **marital rape exists de facto but not de jure**, which means the **definition of rape under section 375 of the Indian Penal Code does not include marital rape as a criminal offence**.
- Also, marital rape is not a criminal offence, and it is only covered under the definition of domestic violence, which is defined under the Protection of Women from Domestic Violence Act, 2005.

Legal Position of Marital Rape

Criminal Law Aspect

- **Section 375** of the Indian Penal Code **defines Rape but doesn't mention about marital rape**. Also, Sexual intercourse by a man with his wife, the wife not being under fifteen years of age, is not rape.
- Under **Section 376-A**, rape of a judicially separated wife is a criminal offence.

Civil Law Aspect

- **Marital rape is not a criminal offence in India, but it is partially covered under a civil law under the Protection of Women from Domestic Violence Act, 2005.**

Constitutional Law Aspect

- **Violation of Article 14: Indian criminal law discriminates against female victims who have been raped by their own husbands.**
- **Violation of Article 21: No person shall be denied of his life and personal liberty except according to the procedure established by law.**

Judgments related to Marital Rape:

- The Supreme Court in **Nimesh Bhai Bharat Bhai Desai v. State of Gujarat (2018)** stated that the wife does not have a right to initiate proceedings against her lawfully wedded husband for the offence of rape punishable under Section 376 as by marriage, a woman gives irrevocable consent to her husband to have sex with her any time he demands it.
- A recent judgment by the Karnataka High Court allowed the prosecution of a man for raping his wife.

Status of women in India

- **Gender Gap: India ranks 127th out of 146 countries in the Gender Gap Report 2023.**
- **Political representation: The 73rd and 74th amendment provides for the reservation of women in Panchayats and Municipalities, but there is no reservation in Parliament and state legislature.**
- **Health: According To NFHS-5, the Sex Ratio is 1020, and the Maternal mortality rate (MMR) is declining. The total fertility rate (TFR) has come down to 2, below the Replacement level of 2.1.**
- **Economic: The DivHERsity Benchmarking Report 2022-2023 by HerKey shows data on women's representation and diversity in corporate India. Women now make up nearly 50% of employees in surveyed companies.**

Internet shutdowns in India

News Excerpt:

According to a report by **Access Now**, out of 187 internet shutdowns, **84** happened in **India** (the highest number of any country in the world for the fifth consecutive year).

Judicial pronouncements regarding Internet shutdown:

- **Anuradha Bhasin vs. Union of India 2020:** The Supreme Court stated that an **indefinite** suspension of internet services would be **illegal**. The Supreme Court has declared internet access a **fundamental right**. Also, the internet shutdown must satisfy the **tests of necessity and proportionality**.

- **Faheema Shirin vs. State of Kerala:** The Kerala High Court has declared that the **right to access** the Internet is one of the fundamental rights under **Article 21**.
- The Right to Access the Internet is an integral part of the Right to Education and the Right to Privacy under Article 21A and Article 21 of the Constitution of India respectively.

Types of Internet shutdowns:

- **Internet Shutdown:** Restricts access to the internet in a specific region, country, or location.
- **Total Internet Shutdown:** Comprehensive blocking of internet access.
- **Social Media Shutdown:** Shutdown that targets social media platforms like Facebook, Twitter, Instagram, WhatsApp, and others.
- **Content Blocking:** Act of blocking or **filtering** certain content.
- **Throttling:** Intentional **slowing down** of internet speeds by an internet service provider (ISP) or government authority. It is used to **disrupt** internet usage without a complete shutdown.
- **National Interest:** Necessary regulation of the Internet can be a reasonable choice of **sovereign** countries based on national interests.
- **Miscellaneous:** ensuring peace during **procession**, preventing cheating in **exams**, against rumour-mongering, etc.
- ✓ In 2022, **nearly 60%** of India's shutdowns occurred in **Jammu and Kashmir U.T.** due to **"political instability and violence,"** according to Access Now's report.

Laws and Provision pertaining to Internet shutdowns:

- In India, there is **no particular law** governing internet shutdowns.
- **Temporary Suspension of Telecom Services** (Public Emergency or Public Safety) **Rules, 2017**, under the Indian Telegraph Act, 1885, provide for a **temporary shutdown** of telecom services in a region on grounds of **public emergency** and give senior **bureaucrats** from the Home Ministry at the central and state levels the power to order shutdowns.
- **Under section 144 CrPC:** Order issued by an officer of the rank of **joint secretary** or above, authorized by the union or state Home Secretary.
- **Section 69(A) of the IT Act** (2008): To block **particular websites**, but not the whole of the internet.
- **Digital Divide:** India Inequality Report 2022: Digital Divide by **Oxfam** states that approximately **70 per cent** of the population has **poor or no connectivity**

to digital services. Blackout further exacerbates the digital divide creating inequalities.

Uniform Civil Code

News Excerpt:

The **22nd** Law Commission has invited views and ideas on the UCC.

- UCC stresses upon the idea of having a **common** code of **personal laws** (inheritance, marriage, divorce, child custody, and alimony) for people of **all religions**.
- Recently, the **Uttarakhand Assembly passed the Uniform Civil Code (UCC)** Bill, becoming the first legislature in independent India to pass a law that proposes common rules on marriage, divorce, inheritance of property, and live-in relationships for all citizens, irrespective of their religion.

Supreme Court Judgments

- **Shah Bano case** (1985): SC stated, "A common Civil Code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies".
- **Sarla Mudgal v Union of India** (1995): SC said that the **need** for a UCC "can hardly be doubted".

Constituent Assembly and Constitution:

- The Constituent Assembly witnessed a lengthy discussion on a common civil code while adopting it as a directive principle.
- When the said Article was being discussed, several **members** (Mohamad Ismail-Madras, Naziruddin Ahmad-West Bengal) suggested **adopting a common civil code** with a **caveat** that it would apply to citizens with **prior consent**.
- **KM Munshi** said that Hindus themselves have their separate laws.
- **Dr. B.R. Ambedkar** underlined the possibility that a future Parliament could make provisions for applying the UCC in a **"purely voluntary"** manner.
- **Article 44** of the Constitution lays down that the state shall endeavour **to secure a UCC** for citizens throughout the territory of India.
- The idea of UCC is not new to India; it already exists in Goa.

Online Gaming – Game of chance vs. Game of skill

News Excerpt:

The government is going to impose a **28 percent tax rate** on the full-face value of bets placed on online games will be **implemented** from **October 1**.

- The GST Council, in its 50th meeting, applied a **28% tax rate** on the full value of online gaming, casinos, and horse trading.
- The MeitY released the **Rules for Online Gaming**.
 - The Rules are an amendment to the **Information Technology** (Intermediary Guidelines and Digital Media Ethics Code) **Rules, 2021**.
 - They are applied to **real-money games** and to the **free game of skills**, which includes online fantasy sports contests, e-sports, card games, etc.
- The **Online Gaming (Regulation) Bill 2022** aims to preserving integrity and introducing a regulatory regime for online gaming.

About:

Online Gaming:

- Online gaming encompasses games that require an internet connection for gameplay. Generally, there are **three types** of online gaming:
 - **E-sports:** It is a form of competition using video games, particularly between professional players, individually or as teams.
 - **Fantasy sports:** These are online prediction games where participants assemble an imaginary or virtual team of real sports players.
 - **Casual games:** They consist of either skill-based or chance-based online games.

- The **Sikkim Online Gaming Act of 2008** regulates the gaming industry in Sikkim. In 2018, a provision was added - to have an identity photo to get into the zones

Gaming Sector, according to INVEST INDIA:

- India is the world's **largest mobile gaming market** in terms of App downloads.
- **Revenue** from Online Gaming **grew 39%** in 2022 to 1.6 billion.
- The sector is expected to grow by **20% by FY25** to reach INR 231 billion.
- India has the **largest fantasy sports market**, with a user base of 180 million.
- There are 421 million online gamers (2022) in India, expected to reach **442 million by 2023**.
- Indian gaming **raised \$ 2.8 Billion** from domestic/global investors in the last 5 years. Funding increased by 380% from 2019 and 23% from 2020.
- India has produced **3 gaming unicorns: Game 24X7, Dream11 and Mobile Premier League**.
- **100% FDI** through **automatic route** is allowed under the **Electronic System and IT & BPM** sectors.

of Sikkim - prohibiting the locals from getting into the betting games. Sikkim has a **licensing regime** for games of **skill and chance**.

- In **Nagaland**, the **Prohibition of Gaming and Promotion and Regulation of Online Games of Skill Rules 2016** inspects, regulates and keeps tabs on skill-based games like sudoku, car racing, solitaire, etc. Nagaland has a **licensing authority** for online games categorised under mere **skill**.
- In 2020, **Telangana** and **Andhra Pradesh** imposed a **ban** on any online gambling or real-money gaming activities.

Game of Chance	Game of Skill
<ul style="list-style-type: none"> • The outcome is determined by chance. • No particular strategy for winning. • Based on random events. • Generally banned in India, except in Sikkim, Goa and Daman Diu. Regulated in many countries. • Example: Ludo, Lottery, etc. 	<ul style="list-style-type: none"> • The outcome is determined by skill. • A particular strategy for winning can be developed and followed. • Based on the player's skill level • Generally legal in India and most countries. • Sports, chess, etc.

Present legal framework:

- The **Public Gambling Act 1867** and the **Information Technology Act 2000** govern online gaming activities in India. Section 66 of the IT Act deals with crimes related to computers, whereas Sections 67, 67A, and 67B deal with the discretion to make laws on the subject of online gaming, as **gambling** and **betting** are mentioned in the **state list** of the constitution.
- The **Assam Game and Betting Act 1970** fails to distinguish between the game of skill and the game of chance.

- **Karnataka** has recently amended its gaming laws to **restrict** its people from playing online **games of chance**, i.e., gambling, betting, and wagering.

Judicial Interpretations:

- **Varun Gumber v. Union Territory of Chandigarh (2017):** The Punjab and Haryana High Court held that "the element of skill" is the predominant outcome of Dream 11 games, as it is a fantasy sport. Therefore, it is exempted from the Provision of Gambling Act 1867 (PGA).
- **Gurdeep Singh Sachar v. Union of India and Others (2019):** Online fantasy sports have been classified as games of skill.

Recent developments:

- The union government is setting up a National Animation, Visual Effects, Gaming and Comic (**AVGC Centre of Excellence**) in collaboration with **IIT Bombay**. The **AVGC Task Force** set up by the government has also given recommendations to develop the gaming ecosystem in the country.
- **Karnataka** and **Telangana** have formulated dedicated **state-level AVGC policies**.
- The government has officially **recognized e-sports** as part of multi-sport events. E-sports have been played as medal events at the **Olympics** and **Asian Games**.

MeitY's Rules for Online Gaming:

- **Three-tier dispute resolution mechanism:** It has established a **Grievance redressal system** for regulating the gaming platform and setting up a **self-regulatory organisation** for registration and certification of games online.
- It defines permissible online real money games as Games where the player deposits cash or kind in the expectation of earning more cash or winnings. The online real money games should be verified with the self-regulatory bodies.
- For verification of the users - KYC (Know your customer), the online gaming intermediaries will have to verify the user before accepting the first deposits in cash or kind in any permissible online real money games.

Digital Advertisement Policy of 2023

News Excerpt:

The **Central Bureau of Communication** recently announced the Digital Advertisement Policy 2023.

About the policy:

- This policy is valid for 5 years.
- It **replaces 2016's Policy Guidelines for Empanelment and Rate Fixation for Central Govt Advertisements on Websites**.
- **The new policy** allows for the empanelment of **five kinds of entities**:
 - Internet websites and mobile apps (news websites and apps, travel websites, etc.);
 - Over-the-top (OTT) video on demand platforms (such as Disney+Hotstar);
 - Digital audio platforms (such as Spotify);
 - Social media platforms (such as Facebook and Twitter);
 - Media agencies for digital campaigns.
- **For empanelment with the CBC, websites and mobile applications have been classified into four categories –**

About Central Bureau of Communication (CBC):

- A unit of the **Ministry of Information and Broadcasting**.
- Set up on 8 December 2017 by the integration of the erstwhile Directorate of Advertising and Visual Publicity (DAVP), Directorate of Field Publicity (DFP), and Song & Drama Division (S&DD).
- **Advertising and Visual Communication Division (erstwhile DAVP) is the nodal division** of CBC responsible for disseminating information about the Government's policies and programmes through available communication vehicles, viz., **Print Media, Audio Visual, Outdoor and Digital Media**.
- Any "innovative and futuristic platforms" can be onboarded by the CBC with the approval of a **six-member committee** that will be headed by the director general or the principal director general of the CBC.

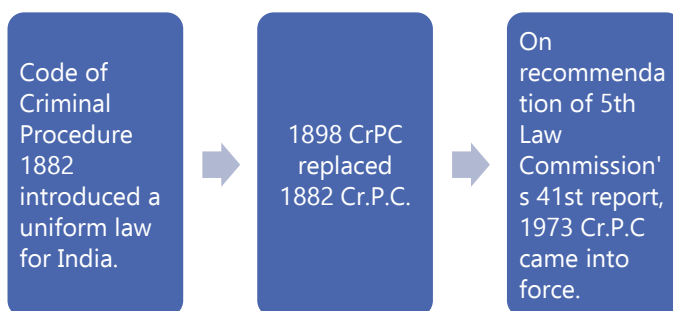
- more than 20 million unique users (A+)
- between 10 and 20 million unique users (A)
- 5-10 million unique users (B)
- 0.25-5 million unique users (C).

- **OTT platforms have been classified into two categories –**
 - **More than 2.5 million** unique users in **category A** and
 - **0.5 To 2.5 million** unique users in **category B**.
- **Podcasters or digital audio platforms** should have a **minimum of five lakh unique** users to be eligible for empanelment with the CBC. Such platforms have also been classified into similar categories, 'A' and 'B'.

Bharatiya Nagarik Suraksha Sanhita (BNSS) Bill 2023

News Excerpt:

The Union Home Minister introduced the Bhartiya Nagarik Suraksha Sanhita (BNSS) Bill 2023, which seeks to **replace** the Code of Criminal Procedure 1973 (CrPC).



The Criminal Procedure Code (CrPC) is a **procedural law** that states how the **police machinery** is to function as far

as investigation and procedure are to be followed by **courts** during investigation and trial.

About:

Need for BNSS 2023:

- The CrPC 1973 is an **archaic document** as most of its provisions are taken from the **British-era CrPC 1898**. One of the **“Panch-Pran”** initiatives announced by the Prime Minister was to eradicate all signs of colonialism in the Amrit-kaal.

- Advancements in technology** have led to concerns about privacy, data theft and surveillance. Moreover, the CrPC needed to be aligned with **digital India**.
- The Criminal justice system had become **extra punitive**, with many small offences leading to **incarceration**, thus leading to **overcrowding** of jails and the **pendency of cases** in courts.

Key Highlights of BNSS 2023:

- The trials, appeal proceedings, and recording of depositions, including those of public servants and police officers, may be held in **electronic mode**, and the statements of the accused can also be recorded through **videoconferencing**.
- Regarding **'Zero FIR'**, the Bill proposes that citizens can lodge an **FIR at any police station irrespective of jurisdiction** limit. The FIR must be transferred **within 15 days** to the police station having jurisdiction over the place of crime. It **informs victims** about the progress of the case.
- A person accused of a crime can be **tried and convicted** in his **absence**. It also has a provision for **attaching the properties** of proclaimed offenders in India and abroad.
- The **charge sheet** will have to be filed **within 90 days**, and the court can extend the time to probe the agency by another 90 days. The **judgement by the lower court** has to be delivered **30 days** after the conclusion of the trial.
- It has fresh provisions to make the **waging of war** against the government of a foreign nation at peace with India, as well as committing depredation on the territory of such a foreign State, an offence punishable with **up to seven years** in prison.

Along with BNSS 2023, two more bills were introduced:

- Bharatiya Nyay Sanhita Bill, 2023 and Bharatiya Sakshya Bill, 2023.
- Bharatiya Nyay Sanhita Bill, 2023, will replace the Indian Penal Code (IPC) 1860 and Bharatiya Sakshya Bill, 2023, will replace the Evidence Act of 1872.
- All three bills collectively seek to reform the Criminal Justice System.

Committees related to the Criminal Justice system:

- Vohra Committee, 1993:** To study the problem of the criminalisation of politics and the nexus among criminals, politicians and bureaucrats in India.
- Malimath Committee, 2003:** It recommended that the victim should be allowed to participate and be given compensation in cases involving serious crimes.
- The Supreme Court Directives, 2006:** SC issued directives for Police reforms in the Prakash Singh case – setting up the Police Complaints Authority and Police Establishments Board, fixed tenure for DGP and separate Investigation and Law and Order functions of police.
- Madhav Menon Committee, 2007:** It recommended ensuring respect and rights at every stage of the criminal justice system.
- Ranbir Singh Committee, 2020:** It was formed to review the three codes of Criminal law – Indian Penal Code (IPC) 1860, CrPC 1973, and Indian Evidence Act 1872.

- A **magistrate** can order any person to give samples of his signature, handwriting, voice or finger impressions for investigation without being arrested.
- About **detention by police**, police to detain or remove any person resisting, refusing, or ignoring, or disregarding directions given as part of preventive action.
- On the **use of handcuffs**, the police officer may, "Keeping in view the nature and gravity of the offence, use handcuffs while effecting the arrest of a person."
- On the **withdrawal of cases**, if a case with a punishment of over seven years is to be withdrawn, the victim will be given a chance to be heard before the process is initiated.
- Procedures for the timeframe to file **mercy petitions in death sentence cases:** After being informed by jail authorities about the disposal of the petition of a convict sentenced to death, he, his legal heir or a relative can submit a mercy petition **within 30 days** to the **Governor**. If rejected, the person can petition the **President within 60 days**, and **no appeal against the order of the President** shall lie in any court.
- On the sanction to **prosecute a government official** in criminal cases, it proposes that the **decision to grant or reject** sanction to prosecute a public servant must be reached by the government **within 120 days** of receiving a request. If the government fails to do so, the sanction will be deemed to have been accorded.

No sanction is required in cases including sexual offences, trafficking, etc.

Women Reservation Act (Nari Shakti Vandan Act) 2023

News Excerpt: The President of India has given assent to the **Constitution (106th Amendment) Act, 2023**, also known as **Nari Shakti Vandan Act 2023**, which provides **1/3rd reservation for women** in Lok Sabha, State Legislative Assemblies, and the Legislative Assembly of the

National Capital Territory of Delhi.

Key highlights of the Act:

- Provision of **33% reservation for women** in **Lok Sabha** and **Assemblies of State** and **National Capital Territory** of Delhi.
- Similar reservations are to be provided within the seats reserved for **SC and ST**.
- The Act states that the reservation will continue for **15 years**. However, it shall continue to this date as determined by a law made by Parliament.
- It **amends Article 239AA** (Special provisions with respect to Delhi) and **inserts** three new articles.
 - **Articles 330A and 332A**- These introduce 33% in Lok Sabha and the state legislative assemblies, respectively.
 - **New Article – 334A**: Reservations shall come into effect once the delimitation is undertaken after the relevant figures for the first Census have been published. The rotation of seats for women shall take effect after each subsequent **delimitation exercise** as determined by a law made by Parliament.
- The Act does **not** require **ratification by the states** since it does not change the actual number of seats that the states have in Parliament. So, state representation in Parliament remains unaffected.
- The Act calls for **three steps**: Census > Delimitation > Quota.

Constitutional amendments needed to operationalize women's reservation:

- **Article 82** provides for the **readjustment** of constituencies (through Limitation) of both Lok Sabha and state Assemblies after every Census.
- **Article 170(3)** deals with the **composition** of the Legislative Assemblies.

Evolution of political representation of women:

- In 1971, the **National Action Committee on the Status of Women in India**, in its report "**Towards Equality**", discussed the receding political representation of women in India.

- In 1987, the **National Perspective Plan for Women** recommended reserving seats for women in elected bodies.
- In 1993, the Constitution's **73rd and 74th Amendment Acts** mandated the reservation of 1/3rd of seats for women in **Panchayati Raj Institutions** and **Urban Local Bodies**.
 - States such as **Bihar, Jharkhand, Maharashtra, Andhra Pradesh, Kerala, and Chhattisgarh** have made provisions to ensure **50% reservation** for women in local bodies.

Central level:

- Currently, **15%** of **Lok Sabha MPs** (Members of Parliament) and **13%** of **Rajya Sabha MPs** are women.
- India has had just **one** female **Prime Minister** and **two** female **Presidents** since its independence.

State level:

- No state has more than 20% women MLAs (Member of Legislative Assembly).
- **Chhattisgarh**- highest with 18% women MLAs.
- **Himachal Pradesh** has just one MLA, **and Mizoram** has none.
- So far, only **15** women have served as **Chief Ministers**.

International level:

- **Global Gender Gap Report:** In the 2023 edition, India ranks 127th out of 146 countries.
- **Sweden, Norway, and South Africa** have more than **45%** women representation in their national legislatures.
- According to UN Women, as of September 2023, 28 women were serving as elected heads of State and/or of Government in 26 countries (out of a total of 193 UN member states).

- **National Policy for the Empowerment of Women (2001)**- reservation to be considered in higher legislative bodies.
- **Bills** for reservation of **women** have been introduced in **1996, 1998, 1999, and 2008**.
 - The **first three Bills lapsed**, and the Rajya Sabha passed the 2008 Bill but **lapsed** due to the dissolution of the 14th Lok Sabha.

Merely Liking a Post is not an Offence Under the IT Act

News Excerpt:

According to a recent judgement of Allahabad High Court, liking a post on social media platforms like Facebook or X (formerly Twitter) cannot be punishable under Section 67 of the Information Technology (IT) Act.

Key points of the judgement:

- According to Allahabad High Court, liking a post on social media applications cannot be punishable under Section 67 of the IT Act because **it does not amount to “publishing or transmitting” the post.**
 - The Court also added that the provision can be attracted if a person had instead shared or retweeted it.
 - According to the court, a post or message can be said to be published when it is posted, and a post or message can be said to be transmitted when it is shared or retweeted.
- The High Court noted that Section 67 of the IT Act is for obscene material as opposed to just provocative materials. The words ‘lascivious or appeals to the prurient interest’ mean relating to sexual interest and desire; therefore, Section 67 of the IT Act does not prescribe any punishment for other provocative material.

Regulation of Social Media in India:

- **Information Technology (IT) Act, 2000:** Social media platforms are considered as intermediaries.
 - Any intermediaries, irrespective of their country of origin, rendering their online services in India need to follow the IT Act, 2000 and other applicable laws.
 - It establishes a legal foundation for electronic governance and governs all areas of electronic communication, including social media.
 - The **Cyber Appellate Tribunal** and the **Cyber Regulations Advisory Committee** are established by the Act.
- **Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021** (IT Rules, 2021): They make intermediaries, including social media platforms, accountable to their users and enhance user safety online.
- **India’s Digital Personal Data Protection Act, 2023:** The DPDP Act applies to all data, whether originally online or offline and later digitized, in India. It also applies to the processing of digital personal data beyond India’s borders, particularly when it encompasses the provision of goods or services to individuals within the Indian territory.

Advocates Amendment Act, 2023

News Excerpt:

The Advocates Amendment Bill, 2023, received the assent of the President.

About the Bill:

- The Bill **repeals** certain sections related to touts under the **Legal Practitioners Act of 1879.**

- It **amended** the **Advocates Act of 1961.**
 - The 1961 Act **consolidates** the law related to legal practitioners and constitutes Bar Councils and the All-India Bar.
- It is **aimed** at **weeding out ‘touts’** from the legal system.

Key features of the Advocates Amendment Bill, 2023:

- **Touts:**
 - The Bill provides that every **High Court, district judge, sessions judge, district magistrate, and revenue officer** (not below the rank of a district collector) may frame and publish **lists of touts.**
 - Tout refers to a person who:
 - Either proposes to **procure or procures** the employment of a legal practitioner in a legal business in return for any payment or
 - **Frequent places** such as the precincts of civil or criminal courts, revenue offices, or railway stations to procure such employment. The Court or judge may exclude from the premises of the Court any person whose name is included in the list of touts.
- **Penalty:** Any person who acts as a tout while his name is included in the list of touts will be punished with imprisonment for upto 3 months, a fine of upto Rs. 500 or both.

Indian Succession Act of 1925

News Excerpt:

Madras High Court (HC) ruled that mothers are not entitled to the assets of a son who died intestate and is survived by widows and children.

About Indian Succession Act, 1925:

- The Indian Succession Act 1925 governs a **Hindu, Sikh, Christian, Jain, or Buddhist will.** However, Muslims are not covered by this Act.
- According to this Act, a **will** is a legal declaration of the maker’s will regarding his property that he wishes to take effect after his death.
 - It is a one-sided or unilateral document.
 - A will becomes effective only after the maker’s death.
 - However, the maker can revoke or change it at any time.
- **As per Section 33 of the Act,** if an intestate had left behind a widow and any lineal descendant, one-third of his property should belong to the widow, and the remaining two-thirds should go to the lineal descendants. No other person would be entitled to a share.

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Sub-categorization within Castes

News Excerpt:

In an election rally in **Telangana**, the Prime Minister promised to investigate the sub-categorization of Scheduled Castes (SCs) to identify and help the most backward among them.

- The **Madigas** are the most populous SC communities in the state but have claimed that another SC community, the **Malas**, was taking up their share of representation.

Background:

- The issue first surfaced in **1996** when the **Andhra Pradesh** government formed a **Commission of Justice Ramachandra Raju**, which **recommended sub-categorizing** SCs based on community representation.
 - In 2000, the Andhra Pradesh legislature passed a **law** reorganising 57 Scheduled Castes into sub-groups and splitting the 15% SC quota into educational institutions and government jobs proportionally to their population.
 - However, this law was declared **unconstitutional** in a 2005 Supreme Court ruling.
- In **2007**, **Bihar** established the **Mahadalit Commission** to identify castes within Scheduled Castes that were left behind.
- In **Tamil Nadu**, a **3% quota** is given to the **Arundhatiyar caste**, as they hold only 0-5% of jobs.
- **Punjab** has had laws that provided preferential treatment to **Balmikis** and **Mazhabi Sikhs** within the SC quota.

- The **Ministry of Social Justice and Empowerment's** annual report shows **1,263 SCs** in India in **2018-19**, with no community specified as SC in Arunachal Pradesh, Nagaland, Andaman & Nicobar Islands, and Lakshadweep.

About:

Sub-categorization of Castes:

- States argue that certain SCs are **under-represented** despite reservation compared to other castes.
- Over the past two decades, several Indian states, including **Andhra Pradesh**, **Punjab**, **Bihar**, and **Tamil Nadu**, have attempted to introduce reservation laws at the state level to sub-categorize SCs and determine their respective quantum of reservation.
 - However, these plans have been **stalled** in courts as the Supreme Court forms its **larger Constitution Bench** to decide the matter.

Constitutional status regarding sub-categorisation:

- The Indian Constitution allows **special treatment** for **SCs** and **STs** to achieve **equality** but does **not specify** the castes and tribes to be called Scheduled Castes (SCs) and Scheduled Tribes (STs).
- This power is left to the central executive, i.e., the **President**.
 - **Articles 341 and 342:** The President, after consultation with the Governor, may specify the castes, races, tribes or parts of groups within castes or races, which shall be deemed to be SCs and STs.
- According to the Constitution, all SCs shall be treated as a **homogeneous group**.

NCSC:

Article 338 of the Indian Constitution deals with the **National Commission for the Scheduled Castes**.

It provides safeguards against the exploitation of **Scheduled Castes** and **Anglo-Indian** communities.

NCST:

The **National Commission for Scheduled Tribes (NCST)** was established by amending Article 338 and inserting a new **Article 338A** in the Constitution through the Constitution (**89th Amendment**) Act, 2003.

It is vested with the duty of the **socio-economic** development of STs and to evaluate their **development progress** under the Union and any State.

Judicial Interventions:

- In **2004**, the Supreme Court ruled that the State did **not** have the power to unilaterally **sub-categorize communities** in the list of SCs or STs.
- In the 2005 **E.V. Chinnaiah case**, the **Supreme Court** ruled that special protection of SCs is based on the premise that all SCs can **collectively enjoy** the benefits of reservation regardless of **income inequality**.
 - It also stated **only** the **President** has the power to notify the **inclusion** or **exclusion** of a caste such as SC, and states **cannot tinker** with the list.
 - However, in **2020**, the **Supreme Court** ruled that deciding on the quantum of benefits in the notified lists would **not** be considered **"tinkering."**
- In the 2018 **Jarnail Singh v Lachhmi Narain Gupta judgement**, the Supreme Court upheld the concept of the **"creamy layer"** within SCs, justifying that it provides an income ceiling on those eligible for reservation.

Executive actions:

- In 2004, the Supreme Court ruling on SC sub-categorization prompted the Union government to **explore legal options**.
- In **2005**, the Attorney-General of India (**AGI**) suggested that it was possible to sub-categorize SCs, provided there was "unimpeachable evidence to indicate a necessity" for it.
 - The AGI suggested a **Constitutional amendment** to facilitate this.
- The **Union government** formed a **National Commission** to investigate this issue in **Andhra Pradesh**, and the **cabinet** recommended an **amendment to Article 341** of the Constitution.
 - However, the **National Commission on SCs** and **STs** argued that a Constitutional amendment was unnecessary.

CASTE CENSUS IN BIHAR

News Excerpt:

The **Bihar government** released the results of its recently concluded survey of castes in the State, which reveals that **Other Backward Classes (OBCs) and Extremely Backward Classes (EBCs) constitute more than 63% of the population of Bihar.**

A look at the Bihar caste census:

- A resolution on the caste-based survey was passed in the Bihar legislature through consensus. The survey has not only considered **one's caste** but also **one's economic status**, which would help the Bihar government **to devise further policies and plans for the development** of all classes.
- **Key findings:**
 - According to the survey, Bihar's population is 13.07 crore, compared to the 10.41 crore recorded in the 2011 census.
 - **Hindus** comprise 81.99% of the population, and **Muslims** 17.72%.
 - The populations of **Buddhists, Christians, Sikhs, Jains, and other religious denominations** are minuscule.
 - The **EBCs** are the biggest social group, comprising 36.01% of the State's population. The **OBCs** number 27.12% and the Scheduled Castes (SCs) 19.65%.
 - **Scheduled Tribes (STs)** number only 1.68%, the bulk of the tribal population having become part of Jharkhand after the bifurcation of the State in 2000.
 - However, the **"unreserved"** category comprises 15.52%.

Background History of Caste-based Census:

- Every Census in independent India from 1951 to 2011 has published data on Scheduled Castes and

Caste-based census year-wise:	
YEAR	OUTCOME
1872	Classified population into Brahmins, Kshatriya, Rajputs, other castes based on profession, native Christians, Aboriginal tribes, and semi-Hindu tribes.
1901	1,642 castes
1931	4,147 castes (detailed caste census was held)
1941	Census curtailed due to World War II
2011	Over 46 lakh caste names, sub-castes, surnames and gotras. Caste numbers were withheld, citing inaccuracies.

Scheduled Tribes but not on other castes. Before that, every Census until 1931 had data on caste.

- The **Kaka Kelkar Commission in 1953** identified 2,399 backward castes, including 837 most backward castes. The Committee also **recommended a caste-based Census in 1961**. However, the recommendation was rejected.

What is a Caste-based Census?

- **Socio-Economic and Caste Census (SECC)** or the **Caste-based Census** is a comprehensive study examining the socio-economic status of rural and urban households. It also gathers information about the caste distribution within the population.
 - The highest reservation mandate for the Other Backward Classes (OBCs) at 27% is caste, according to the **Mandal Commission** based on caste.

Landmark Judgments after Independence related to the Reservations:

- **State of Madras Vs. Champakam Dorairajan, 1950:**
 - **Judgment:** The court ruled that caste-based reservation violates Article 15(1) of the Constitution. It said reservation was an exception to equality and hence violated the right to equality.
 - **It's Implication:** First Constitutional Amendment.
- **M. R. Balaji Vs. State of Mysore, 1963:**
 - **Judgment:** The Mysore government's 68% reservation in college admissions was ruled excessive and unreasonable and was capped at 50%.
 - **Its Implications:** The SC in the Indra Sawhney case imposed the 50% limit on reservations in 1992.
- **Indra Sawhney Vs. Union of India, 1992:**
 - **Judgment:** The court upheld separate reservations for OBCs but excluded the "creamy layer". It rejected

economic reservations and set a ceiling of 50% for all kinds of reservations.

- **Its Implications:** The case was pressed again in 1999, and the SC reaffirmed the creamy layer exclusion and extended it to SCs and STs.
- **M. Nagaraja Vs. Union of India, 2007:**
 - **Judgment:** Upheld 77th Amendment, which extended reservations for promotion in employment for SCs and STs.
 - **Its Implication:** The court ruled that promotions should satisfy the triple test of backwardness, representation and the need for efficiency. Backlog vacancies were excluded from the 50% limit.
- **I. R. Coelho (deceased) by LRS. Vs. State of Tamil Nadu, 2007:**
 - **Judgment:** SC advised the Tamil Nadu government to follow a 50 percent reservation limit.
 - **Its Implications:** Tamil Nadu reservations were put under the 9th schedule of the Constitution, which the court had already upheld.
- **P. A. Inamdar Vs. State of Maharashtra:**
 - **Judgment:** Reservations cannot be enforced on private institutions which do not receive government funding.
 - **Its Implications:** Led to the 93rd Constitutional Amendment Act, which introduced Article 15(5).
- **Janhit Abhiyan Vs. Union of India, 2022:**
 - **Judgment:** Upheld 103rd Amendment, which introduced 10% reservation for the Economically Weaker Section in education and public employment.
 - **Its Implications:** A new reservation regime was created.

Rights of the unborn child

News Excerpt:

The **Supreme Court** declined permission to a married woman to terminate her over 26-week pregnancy after the **AIIMS Medical Board** had confirmed that the pregnancy was not a cause of immediate danger to her life or the foetus.



95.5% of women were unaware of the amendment to the Medical Termination of Pregnancy (MTP) Act which increases the gestational age from 20 to 24 weeks in cases of substantial foetal abnormalities.

40% of women were aware that Medical Termination of Pregnancy was legal in India while 24% of women thought MTP is "legal with certain conditions".



68% of women consider termination of pregnancy as a woman's health right.

- According to the study by the Foundation for Reproductive Health Services (FRHS) – an NGO in Delhi, Maharashtra, Rajasthan and Uttar Pradesh –

About:

- **The three-judge Bench** headed by Chief Justice of India (**CJI**) **D Y Chandrachud** said that the women cannot claim an absolute overriding right to abort.
 - **Section 5** of the **MTP act** allows abortion only if the pregnancy poses an **actual, physical and immediate danger** to a **woman's life and health**.
- The Bench observed that there are **rights of the unborn child**, too, and that a **woman's autonomy is also important**. The Bench said that the **unborn child's rights should also be balanced**.

Law on abortion:

- On the recommendation of the **Shantilal Shah Committee**, the government enacted **The Medical Termination of Pregnancy (MTP) Act, 1971**.
- The **MTP Act** allows the termination of pregnancy in **three stages** –
 - **Stage 1:** Termination of pregnancy **up to 20 weeks** is allowed on one doctor's advice.
 - **Stage 2:** If a pregnancy is **20-24 weeks**, the right to seek abortion is determined by two registered medical practitioners as an exception, only under certain categories like forced pregnancies, rape in case of minors or sexual assault, women with disabilities, change in the marital status of women during pregnancy.
 - **Stage 3: After 24 weeks**, a medical board must be set up in "approved facilities", which may "allow or deny termination of pregnancy" only if substantial foetal abnormality exists.
- The landmark 1973 US Supreme Court verdict in **Roe v Wade** that made **abortion a constitutional right** allowed abortion **up to the point of foetal viability**, which is the time after which a foetus can survive outside the womb.
- **Roe v Wade** was overturned by the Supreme Court of the United States in 2021.
- Recently, **France has become the first country in the world to explicitly include the right to abortion in its constitution**.

Right to Repair

News Excerpt:

The **Apple company**, which was against the 'Right to Repair' movement just a few years ago, became its newest supporter.

CC_COMPILATION_POLITY

- Earlier in 2022, the Ministry of Consumer Affairs (**MCA**) set up a **committee** chaired by **Nidhi Khare** to come up with a **Right to Repair framework**.
- The Government launched the **Right-to-Repair portal**, where manufacturers share the manual of product details with customers.

Global Practices:

- In the **US**, the Federal Trade Commission has directed manufacturers to remedy **unfair anti-competitive practices** and asked them to ensure that **consumers can make repairs**, either themselves or by a **third-party agency**.
- Recently, the **U.K.** has also passed a law that includes all electronic appliance manufacturers to provide consumers with **spare parts** for getting the repair done either by themselves or by the **local repair shops**.
- The **European Union** passed legislation that required manufacturers to supply parts of products to professional repairmen for a time of **10 years**.

About:

- The Right to Repair for consumer goods refers to the concept of **allowing end users, consumers, as well as businesses to repair devices they own or service** without any manufacturer or technical restrictions.
- The **objective** of this Right to Repair framework is to empower consumers, harmonise trade between the original equipment manufacturers and third-party buyers and sellers, reduce e-waste and create new jobs.
- The **sectors identified** for this framework include Farming equipment, Mobiles/Electronic Displays/Data Storage components, Consumer durables, and Automobile equipment.

LGBTQIA+ Rights in India

News Excerpt:

A five-judge Constitution Bench of the Supreme Court recently reserved judgment on a batch of pleas seeking legal validation for same-sex marriage.

Timeline of the LGBTQIA+ Movement in India

- 1990-91, the **LPG reforms** ushered in **Western influences**, viz., Western **NGOs** sought equal rights for LGBT communities. With the rise of **HIV AIDS** largely in the gay community, the demand for programmes and policies to limit HIV were **mainstreamed**.
- In 1999, Kolkata hosted India's first Gay Pride Parade, **the Calcutta Rainbow Pride Parade**.
- With the increased **awareness** about **LGBT rights**, the issue was challenged in the courts. Various judgments

were passed, increasing the **acceptance** of the LGBT community thereon.

- In 2015, MP **Shashi Tharoor** introduced a **private member bill** in the Parliament.
- In 2022, MP **Supriya Sule** introduced a private member Bill in Lok Sabha to legalize same-sex marriage in the country.
- The **first codified legislation** on homosexuality, **Section 377** of the **IPC** prohibited LGBT individuals from "**unnatural offence**" and having "**carnal intercourse against the order of nature**".
- Though the **Right to Equality** was granted under **Article 14**, **homosexuality** remained a **criminal offence** under Section 377.

Judgments related to LGBTQIA+ Rights:

- **Naz Foundation vs. Government of NCT, Delhi:** High Court stated that Section 377 violates Articles **14, 15 and 21**.
- **National Legal Services Authority vs. Union of India, 2014:** SC declared transgenders as the '**Third Gender**'. Their fundamental **rights** were affirmed, and **reservations** in education and jobs were granted.
- **Justice K.S. Puttaswamy vs. Union of India 2017:** SC ruled that **Right to Privacy** is intrinsic to life and liberty and thus, comes under **Article 21**. SC declared that **bodily autonomy** was an integral part of the right to privacy. This bodily autonomy has within its ambit the **sexual orientation** of an individual.
- **Navtej Singh Johar v, Union of India 2018:** A **five-judge bench** of SC held **Section 377** to be **unconstitutional**. The decision relied on the Puttaswamy judgment.
- **Deepika Singh vs Central Administrative Tribunal 2022:** Ruling recognised "**atypical**" families, including **queer marriages**.

Laws and Provisions related to LGBTQIA+:

There are **no specific laws** covering the **whole** of LGBTQIA+ community.

- **Transgender Persons (Protection of Rights) Act, 2019**
- National **Council** for Transgender Persons
- **Garima Greh:** To provide shelter, food, medical care and recreational facilities to transgender persons.
- National **Portal** for Transgender Persons
- **Skill development** training for transgender beneficiaries through **PM-DAKSH**.
- **SMILE** Scheme, Ministry of social justice and empowerment.

Constitutional safeguards:

- **Preamble:** **Justice** (social, economic, and political) and **Equality of status**.
- **Article 14** (Right to Equality) provides for the **rule of law** and **equal protection of the laws**.

- **Articles 15 and 16** (Right against **Discrimination** and Equality of **Opportunity**).
- **Article 21** Rights to **Life** and Personal **Liberty**.
- **Article 23** Right against **Exploitation** and prohibits acts like human trafficking and beggary.

International Scenario:

- **Yogyakarta principles:** It is a Document about human rights regarding **sexual orientation** and **gender identity**. Yogyakarta Principles **plus 10** in 2017, expanded to include **LGBTIQ+ people**.
- **International Labour Organization (ILO):** Released a document on **"Inclusion of LGBTIQ+ persons in the world of work"**. It recommends ensuring equal **opportunities** and treatment for LGBTIQ+ persons at work.
- **Ireland, USA, Brazil, Canada, France,** etc., have legalized same-sex **marriage**. 12 out of the G20 countries, including the EU, have permitted same-sex marriages.
- Recently, **Uganda** passed the **Anti-Homosexuality Act of 2023**, which criminalizes same-sex conduct, including a potential death penalty for those convicted of "aggravated homosexuality."

Transgender Reservation

- The Maharashtra government informed the Bombay High Court that providing additional reservations to transgender persons in education and public employment would be difficult due to existing reservations for various communities in India.
- Transgender persons in India have been advocating for horizontal reservation (within categories like OBC) to address historical marginalization and the socio-economic challenges they face.
- The **National Legal Services Authority of India (NALSA) v Union of India (2014)** case recognized **transgender persons as socially and educationally backward and entitled to reservation**, but it did not specify whether it should be vertical or horizontal reservation.
- A study conducted by the National Human Rights Commission revealed that only 6% of transgender people were formally employed in 2017, with many engaged in informal work like begging and sex work.

Same-sex marriage cannot be legalized.

News Excerpt:

By majority opinion, the five-judge Constitutional Bench of SC ruled in a 3:2 verdict against giving constitutional validity to same-sex marriages.

Background:

- In a landmark **decision in Navtej Singh Johar v. Union of India 2018**, the Supreme Court of India

decriminalized homosexuality by **striking down Section 377** of the **Indian Penal Code**.

- The Supreme Court of India began hearing petitions seeking the legalization of **same-sex marriage** on April 18, 2023.
- The CJJ concludes that the court can neither strike down or read words into the **Special Marriage Act (SMA), 1954** to include same-sex members within the ambit of the SMA 1954. **Recognizing LGBTQ marriage is within the scope of the Government.**
- However, at the same time, the SC holds that queer persons have an equal right and freedom to enter into a "union".

Section 377 of the IPC:

"Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Civil union: This legal status allows same-sex couples specific rights and responsibilities usually conferred upon married couples. **Although resembling marriage, it does not have the same recognition in personal law.**

Other laws/Acts related to LGBTQ:

1. **The Transgender Persons (Protection of Rights) Act, 2019:**
 - **The Act bans discrimination against transgender people in educational establishments and services, employment, healthcare services, and access to the "use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public".**
 - Moreover, it also gives them the right to movement, "reside, purchase, rent or otherwise occupy any property," the opportunity to stand for or hold public or private office, and in Government or private establishments.

DID YOU KNOW?

As of 2023, marriage between same-sex couples is legally performed and recognized in how many countries?

- **Same sex marriage will become legal in the 35th country, Estonia, from the 2024 year.**
- **Denmark was the first country to legalize civil unions for same-sex couples in 1989.**
- **Sweden comes in first place as the safest country for the LGBTQ.**

JUDICIARY

Extra-Judicial Killings (EJK)

News Excerpt:

The Supreme Court recently stated in an observation that Extra-Judicial Killings in India are in clear violation of Fundamental rights enshrined under **Article 21 (Right to life)** of the Constitution of India.

Article 21:

The Constitution guarantees the Right to Life and Personal Liberty under Article 21, which is non-negotiable and applicable to everyone.

Understanding Extra-Judicial Killings

- Extra-judicial killing is the act of killing a person by the state or its agents without any legal proceedings or justification.
- It is illegal and violates human rights and the rule of law as a person is killed without a trial, due process, or any legal justification.
- It can take different forms, such as extrajudicial executions, summary executions, and enforced disappearances.
- Between 2016-17 and 2021-22, India has seen a 15% decline in encounter killing cases. However, after March 2022, the cases shot up by 69.5% in the last two years.
- Since April 2016, Chhattisgarh recorded the most extrajudicial killing cases at 259, followed by Uttar Pradesh at 110 and Assam at 79.
- Under Section 46 of the Criminal Procedure Code, Police in India are allowed to use lethal force to arrest someone accused of a serious crime.

Guideline Related to Encounters in India

Supreme Court

The Supreme Court of India, in the case of **People's Union for Civil Liberties v State of Maharashtra**, issued guidelines for the investigation of police encounters that result in death:

- Compulsory registration of a First Information Report (FIR) along with magisterial inquiry.
- Any inquiry must involve the next of kin of the deceased.
- All intelligence inputs must be kept in written records.
- To ensure a fair and impartial investigation, an independent agency should be included.
- Information about the incidents must be sent to NHRC or SHRC. However, NHRC will get involved only when there is serious doubt about the independent and impartial investigation.

- These norms are treated as law declared under Article 141 of the Constitution of India.

National Human Rights Commission

- ✓ NHRC first gave guidelines in 1997 which included:
 - ✓ Independent investigation by the State CID
 - ✓ Compensation to the deceased if in case police officers are being convicted.
- ✓ In 2010, NHRC gave another guideline which included:
 - FIR registration, along with magisterial inquiry
 - Report to NHRC within 48 hours by the Senior Superintendent of Police or Superintendent of Police.
 - Second Report after three months along with the postmortem report, inquest report, and enquiry findings.

Zero FIR

News Excerpt:

Many victims of Manipur violence used the provision of Zero FIR to register their complaints with police.

About:

- A Zero FIR (First Information Report) is a type of FIR filed in India when a crime is reported in one police station's jurisdiction, but the incident occurred in another police station's jurisdiction.
- The concept of Zero FIR was introduced to ensure that immediate action is taken in serious criminal cases without delay due to jurisdictional issues.
 - It was introduced on the recommendation of Justice Verma Committee (Nirbhaya case -2012).
- The term first information report (FIR) is not defined in any law.
 - The information recorded under Section 154 of CrPC is known as First Information Report (FIR).
- It must be related to a cognizable offence.
 - Cognisable offences are offences for which the police do not require a warrant when carrying out an arrest.

Mercy Petition

News Excerpt:

Recently, The Supreme Court (SC) has declined to order the government to commute Balwant Singh Rajoana's death sentence, instead allowing the government to deliberate on the Mercy Petition as needed.

About Mercy Petition:

- A mercy petition is a **formal plea made by someone sentenced to death or imprisonment to the President or Governor**, depending on the case.
- **Article 72:** The **President** has the authority to issue pardons, reprieves, respites, or remissions of punishment, as well as to suspend, remit, or commute the sentence of anyone convicted of any offence:
 - In all circumstances where a **Court Martial** renders a punishment or sentence;
 - In all cases when the punishment or sentence is for a violation of any **law** relating to an issue to which the Union's executive power extends;
 - In all circumstances where the sentence is a **death sentence**.

- **Pardon:** The president can completely absolve/acquit the person of the offence and release him as a normal citizen.
- **Commute:** To change the sort of punishment to something less severe. As an example, from rigorous to ordinary incarceration.
- **Remission:** To lower the severity of a punishment without affecting its character. For instance, 20 years of rigorous imprisonment is reduced to 10 years of rigorous imprisonment.
- **Reprieve:** A postponement in the execution of a sentence, generally the death penalty, to allow a guilty person to establish his innocence.
- **Respite:** Reduce the severity of punishment based on specific factors such as pregnancy, old age, and so on.

- **Article 161:** The **Governor** of a State has the authority to grant pardons, reprieves, respites, or remissions of punishment or to suspend, remit, or commute the sentence of any person convicted of any offence against any law relating to a matter to which the State's executive power extends.
- The petitions are received on behalf of the President by the President's secretariat and **transmitted to the Ministry of Home Affairs** for comments and recommendations.

Article 142 of the Constitution

News Excerpt:

The Supreme Court ruled that **a court can grant divorce directly under Article 142 of the Constitution in cases where the marriage has irretrievably broken down, without first referring the parties to a family court, where they must wait 6-18 months for a decree of divorce by mutual consent.**

About Article 142(1) of the Constitution:

- **Article 142** gives the Supreme Court the discretionary power to perform "complete justice" between the parties when the law or statute does not afford a remedy.
- **Complete justice-** The Supreme Court has stated that the capacity to do comprehensive justice is of a different level and nature that cannot be limited by the requirements of statute law.
- This power facilitates the administration of justice, and whenever the court determines that the demand for justice necessitates the exercise of such powers or under any law made by Parliament and, until provision in that behalf is made, in such manner as the President may by order preside over.
- It does so by using this extraordinary provision of Article 142(1), which was specifically inserted in the Constitution.

Cognizable Offences & FIR

News Excerpt:

The Supreme Court issued a notice to Delhi Police on a plea filed by seven wrestlers seeking an FIR against the head of the Wrestling Federation of India (WFI) and an MP on sexual harassment charges.

About Cognizable Offences & FIR:

- First Information Report (FIR) is a written document generated by police when they acquire information regarding a cognizable offence.
- It is a **report on information that arrives at the police station first**, which is why it is called the First Information Report.
- In most cases, **it is a complaint filed with the police by the victim of a cognizable offence or someone acting on his or her behalf**. Anyone can report a cognizable offence, either verbally or in writing.
- FIR is not specified in the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), or any other law.
- In police regulations or guidelines, **information recorded under Section 154 of the CrPC** is referred to as a FIR.
- An FIR contains three critical components:
 - The data must be related to the commission of a **cognizable offence**.
 - It should be **delivered in writing or orally** to the police station's commander.
 - The **informant must write it down** and **sign it**, and the essential aspects must be noted in a daily journal.

- **Cognizable Offence:** It allows the police to arrest someone without a warrant.
- They have the authority to initiate an inquiry into a cognizable case without the need for a court order.
- **Non-cognizable Offence:** A non-cognizable offence is one in which a police officer does not have the jurisdiction to arrest someone without a warrant. For these, a FIR is filed under Section 155 of the CrPC.
- Without the approval of the court, the police cannot investigate such an infraction.
- The complainant will be required to seek an order from a court. The court may then order the police to investigate the complaint.

Kesavananda Bharati Judgment

News Excerpt:

Recently, the Supreme Court published a video commemorating the landmark 1973 Fundamental Rights case on the **50th anniversary** of the landmark judicial decision in the Kesavananda Bharati case.

About Kesavananda Bharati Judgment:

- In this case, the Supreme Court **reversed its decision in the Golak Nath case.**
 - It maintained the legality of the **24th Amendment Act** and said that Parliament has the authority to limit or eliminate any of the Fundamental Rights.
 - Simultaneously, it established a new notion of the Constitution's 'basic structure' (or 'essential features').
- It decided that Parliament's constituent power under **Article 368** does not allow it to change the Constitution's "basic structure."
- This means that Parliament **cannot limit or eliminate a Fundamental Right** that is part of the Constitution's "basic structure."

Basic structure doctrine:

- In the seminal ruling in Kesavananda Bharati vs State of Kerala (24th April 1973), the Supreme Court laid down the "basic structure" doctrine limiting the power of Parliament to amend the Constitution.
- It stated that **every provision of the Constitution can be amended, provided the foundation and structure of the Constitution remain the same.**

Elements of the basic structure

Indian Constitution and basic structure

- ✓ It has **no explicit mention** in the constitution. Even the Supreme Court has not clearly defined what constitutes the basic structure.

- ✓ The apex court, through its various judgements, keeps on adding to and evolving this doctrine.
- ✓ It greatly extended the scope of its judicial review by claiming the authority to evaluate all constitutional amendments, and not only those that concerned fundamental rights.
- ✓ The **judiciary is the guardian of the constitution.** It ensures the enforcement of the fundamental rights of people. the basic structure doctrine acts a shield that guards Indians against absolutism and majoritarianism of the Executive and Legislature.

Ninth Schedule

News Excerpt:

Recently, the Government of Chhattisgarh passed two bills in the assembly that will pave the way for a 76% quota for Scheduled Caste, Scheduled Tribes and Other Backward Classes but asserted that they would come into force only after the Centre carries out amendments to include these in the Ninth Schedule of the Constitution.

About Ninth Schedule

- The Ninth Schedule contains a list of central and state laws which cannot be challenged in court. The Schedule became a part of the Constitution **in 1951 through the First Amendment.**
- Through the First Amendment, Article 31A (extends protection to 'classes' of laws) and Article 31B (shields specific laws or enactments- giving birth to Schedule IX) were also added.
- Article 31B has a retrospective operation. If an act is held unconstitutional and thereafter is put under the 9th schedule, it will be considered as its part since its commencement.
- The First Amendment added 13 laws to the Schedule. Currently, there are 284 such laws shielded from judicial review.
- Most of the laws protected under the Schedule concern agriculture/land issues, the list includes other subjects, such as reservation.

Judicial Review

- Judicial Review act as a cornerstone for the **principle of constitutionalism as it upholds the principle of the rule of law and the doctrine of separation of powers.**
- On a broader scale, there are mainly three aspects of judicial review, they are-
 - Judicial review of administrative actions
 - Reviewing Judicial pronouncements, and
 - Review of the action of the legislature.
- The nature of the judicial review is procedural. Indian Judicial review has its root directly in several Articles of

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the Indian Constitution e.g. Articles 13, 32, 131 to 136, 143, 226, and 246.

Courts and Ninth Schedule

Three key judgements answer the question of whether the Ninth Schedule is completely Exempt from Judicial Scrutiny. These are:

- **Keshavananda Bharati v. State of Kerala**– The court introduced a new concept of the "Basic structure of the Indian Constitution" and stated that, "all provisions of the constitution can be amended, but those amendments which will abrogate or take away the essence or basic structure of constitution which included Fundamental Rights are fit to be struck down by the court".
- **Waman Rao v. Union of India**– SC ruled that "those amendments which were made in the Constitution before 24th April 1973 (date on which judgement in Keshavananda Bharati was delivered) are valid and constitutional but those which were made after the stated date are open to being challenged on the ground of constitutionality. This is also known as the "**Doctrine of Prospective Over-Ruling,**" which means that 'only what follows after is bound to abide by the rules, and what happened earlier will not be taken into account.
- **I R Coelho v. State of Tamil Nadu:** It was held that every law must be tested under Art. 14, 19, and 21 if it came into force after 24th April 1973. In addition, the court upheld its previous rulings and declared that any act can be challenged and is open to scrutiny by the judiciary if it does not align with the basic structure of the Constitution. So, **the laws included in IX schedule after April 24, 1973, are now open to judicial review.**

Forum Shopping

News Excerpt:

The Chief Justice of India (CJI) expressed strong disapproval of Forum Shopping when a litigant mentioned their case for a hearing before the CJI.

Understanding Forum Shopping

- Forum shopping is the deliberate practice of **selecting a specific court for a legal case with the intention of obtaining a favourable outcome.**
- Litigants and lawyers often consider forum shopping as part of their litigation strategy, aiming to gain advantages in their case.
- "**Bench hunting**" refers to petitioners managing to have their cases heard by a specific judge or bench to ensure a favourable judgment.

Default Bail

News Excerpt:

The Supreme Court has **directed lower courts to independently grant default bail in criminal cases if the charge sheet is not filed within the prescribed time limits of 60 or 90 days.**

- The **Ritu Chhabaria judgment** recognized the **right to default bail** as a **fundamental right** under **Article 21** of the Constitution, safeguarding accused individuals from the unchecked power of the State.

Different types of bail:

- **Regular Bail:** It refers to the court's order to release an arrested person from police custody.
 - To obtain **regular** bail, an individual can apply under Sections 437 and 439 of the Code of Criminal Procedure (CrPC).
- **Interim Bail:** It is a **temporary** bail granted by the court while the application for anticipatory bail or regular bail is pending. It serves as a temporary release until a final decision is made by the court.
- **Anticipatory Bail:** It is bail granted to a person **even before their arrest.**
 - It is sought when there is a fear of arrest, and the person is not yet apprehended.
 - An individual can apply for anticipatory bail under Section 438 of the CrPC.
 - **The Sessions Court and High Court can issue this type of bail.**

Constitutional Provisions Related to Arrest:

- **Article 22** provides safeguards for individuals who have been arrested or detained. The first part pertains to ordinary law cases, while the second part pertains to cases related to preventive detention laws.
 - **Punitive** detention is imposed as a punishment after a person has been tried and convicted in court for committing an offence.
 - **Preventive** detention involves the detention of a person without trial or conviction by a court.

About Default Bail or Statutory Bail:

Statutory Bail is the right to bail that arises when the police fail to complete an investigation within a specified period for a person in judicial custody.

➤ Section 167(2) of the CrPC:

- It provides the framework for Statutory Bail, which states that if the police cannot conclude the investigation within 24 hours, the suspect is presented before a magistrate to determine custody.

➤ Detention Period and Judicial Custody:

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- As per Section 167(2) of the CrPC, the magistrate can order the accused person to be held in police custody for up to 15 days.
- If more time is required, the magistrate can authorize the accused person's **detention in judicial custody, i.e., jail.**
- **The maximum detention periods are:**
 - Ninety days for crimes punishable by death, life imprisonment, or imprisonment for at least ten years.
 - Sixty days for other offences.
- **Special Cases:**
 - Some special laws, such as the **Narcotic Drugs and Psychotropic Substances Act**, may have different investigation time limits, like 180 days.
 - Under the **Unlawful Activities (Prevention) Act 1967**, the default limit is 90 days, extendable for another 90 days based on a report by the Public Prosecutor.
 - The extension of time for investigation requires a judicial order and is not automatic.

- **Recruitment of persons other than district judges to the judicial service of a state (Article 234):** They shall be made by **the Governor of the State in accordance** with rules made by him on that behalf **after consultation with the State Public Service Commission and with the High Court** exercising jurisdiction in relation to such State.
- In practice, the State Public Service Commission conducts a competitive examination for recruitment to the state's judicial service.
- **Control over subordinate courts (Article 235):** 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.**

- The district judge is also the **session judge**. When he deals with civil cases, he is known as the district judge and when he hears the criminal cases, he is called as the sessions judge.
- The district judge exercises both judicial and administrative powers.

District Judiciary

News Excerpt:

The Supreme Court, in a recent judgment, specified that the **independence of the district judiciary** is also a part of the **basic structure of the Constitution**, underlining that the access to justice would remain illusory without impartial and independent judges at the grassroots level.

- The judgment also held that **judicial independence from the executive and the legislature requires the judiciary to have a say in matters of finances.**
- **What Constitutes District Judiciary?**
- The hierarchy of district courts, along with the High Court, constitutes the state judiciary, which, along with the Supreme Court, forms the integrated judicial system of India.
- **Part VI from articles 233 to 237** of the Indian constitution specifies the provisions to regulate the organization and structure of lower courts in India, also termed as subordinate courts.
 - However, this is a misnomer because the district judge is not per se subordinate to any other person in the exercise of her jurisdiction but also is disrespectful to the constitutional position of a district judge.
- **Appointment of District Judges (Article 233):** Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the **Governor of the State in consultation with the High Court** exercising jurisdiction in relation to such State.

- **Article 236:** The expression "**district judge**" includes **judge of a city civil court, additional district judge, joint district judge, assistant district judge, chief judge of a small cause court, chief presidency magistrate, additional chief presidency magistrate, sessions judge, additional sessions judge and assistant sessions judge.**
- The expression "**judicial service**" means service consisting exclusively of persons intended to fill the post of district judge and other civil judicial posts inferior to the post of district judge.
- **Article 237:** The Governor may direct that the provisions relating to persons in the state judicial service would apply to any class or classes of magistrates in the state.

Advocate-on-Record (AoR)

News Excerpt:

A Supreme Court (SC) Bench imposed a cost of ₹2,000 on an advocate-on-record (AoR) for sending a young junior to appear before the Bench without any papers.

About Advocate-on-Record (AoR):

- The concept of AoR was introduced by the SC under Article 145(1) of the Indian Constitution- the SC may, from time to time, make rules for regulating the practices and procedures in the court.
- "**Advocate on record**" is a title given to an advocate who can represent a cause or pleading before the SC.

- Only these advocates are entitled to file any matter or document before the SC. They can also file an appearance or act for a party in the SC.
- No other High Court in India has a similar provision.
- **Order IV Rule 5 of the SC Rules, 2013** lays down the following requirements:
 - The Advocate is required to be **enrolled with any State Bar Council**, have a **prior experience of at least 4 years**, undergone **training for 1 year under a senior AoR**, appear for the examination conducted by the SC, be required to have an **office in Delhi within a radius of 10 miles** from the SC house, etc.
- Once registered, an AOR is issued a unique identification number that must be used on all documents filed in the SC.

Designation of Senior Advocates

Supreme Court published **new guidelines** for the 'senior advocate' designation.

About- Senior Advocate-

- Section 16 (1) of the Advocates Act, 1961 states there shall be two classes of advocates, namely, senior advocates and other advocates.
- Section 16 (2) allows an advocate to be designated as a senior advocate if he consents to it and if the Supreme Court or a High Court is of opinion that by virtue of his ability, he is deserving of such distinction.
- The new guidelines prescribe the **minimum age** as 45 years to apply for the 'senior advocate' designation. This age limit may, however, be relaxed by the Committee.
- **Members of Committee-** CJI (Chairman), two senior-most SC judges, the Attorney General of India, and a member of the Bar nominated by the chair and other members.

Historical Background -

- Section 16 of the Advocates Act of 1961 governed the appointment of senior advocates.
- **2017 judgment- Indira Jaising case, 2017** Justice Ranjan Gogoi laid down guidelines for itself and all High Courts on the process of designating senior advocates.
 - Setting up of a "permanent committee" and a "permanent secretariat", a body tasked with receiving and compiling all applications for designation.

Third Phase of e-Courts Project

News Excerpt:

The Union Cabinet approved the 3rd phase of the e-Courts Projects with a budget allocation of ₹7,210 crore.

About the e-Courts Project:

- It was **conceptualised based on the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary – 2005" submitted by the e-Committee**, with a vision to transform the Indian Judiciary by ICT enablement of Courts.
- **E-committee** is constituted to assist the Chief Justice of India in **formulating a National Policy on the computerisation of the Indian Judiciary**.
- It is a **Pan-India Project, monitored and funded by the Department of Justice, Ministry of Law and Justice**, for the District Courts across the country.
- The Project envisages citizen-centric service delivery, decision support systems, transparency in the accessibility of information and an affordable, accessible, cost-effective, predictable, reliable and transparent justice delivery system.
- **The Phase I** of e-Courts was concluded in 2015, in which 14,249 Court sites were computerised.
- **Under Phase II**, 18,735 District and Subordinate courts have been computerised.
- **Phase III** to be implemented over four years – will see the digitisation of entire court records, both legacy and pending cases, at an estimated cost of ₹2,038.40 crore.
- It will set up 2,500 new modern, virtual-friendly courts, establish 1150 virtual courts, and 4,400 e-Sewa Kendras in all court complexes and digitise around 3,108 crore documents.

FASTER 2.0 portal and e-SCR portal

News Excerpt:

The Chief Justice of India launched the **FASTER 2.0 portal** and unveiled a **Hindi version** of the **e-SCR portal**.

About Fast and Secured Transmission of Electronic Records (FASTER) 2.0 portal:

- The portal is designed to promptly **inform jail authorities, trial courts, and high courts** about court orders to release prisoners.

About e - Supreme Court Report (e-SCR) portal:

- This is an initiative to provide the **digital version** of the **judgments** of the Supreme Court as they are reported in **"Supreme Court Reports"**.
 - The **Hindi version** of the e-SCR portal will **allow access to Supreme Court judgments in**

Hindi, making legal information more **accessible** and **inclusive**.

- This project endeavours to take a step forward towards fulfilling the objective of the **digitization of the Indian Judiciary** for the benefit of **litigants, judges, members of the Bar, law colleges and universities, governmental institutions, law clerks and researchers, judicial academies, civic society** and the public at large.

Regional Languages in Court

News Excerpt:

Recently, the Supreme Court of India constituted **Justice A.Oak committee** to translate SC judgements into regional languages.

Article 348 of the Constitution:

- Until Parliament changes, all proceedings in the Supreme Court and High Courts shall be in English language.
- **Article 348(2)** says that the Governor, with the consent of the President, can permit the use of Hindi or the official language of the state in the proceedings of the High Court of that state.
- However, the judgements and orders of such High Court must be in English.

Other provisions regarding the language in higher judiciary:

- **As per the Official Language Act**, the Governor, with the consent of the President, can provide for use of Hindi or the official language of the state, in addition to English, for judgements and orders of the high court.
- In 1965, the Cabinet Committee decided that the Chief Justice of India's consent must be taken on any proposal on the use of any language besides English in the High Courts.
- **Thereafter, the use of Hindi was authorised in the High Courts of Uttar Pradesh (1969), Madhya Pradesh (1971), and Bihar (1972) in consultation with the CJ,**

Gram Nyayalaya-language:

- They use the official language of the state other than English. The training of Nya-Adhikari may also include the local **language** of the community. E.g., in Kerala Malayalam language is used in gram Nyaya Laya in Kerala.
- **Lok Adalat-language:**
- Generally, the language used is Hindi, English or the regional language of the state where the Lok Adalat is held.

Initiatives to promote regional language in the judiciary:

- SC constituted **Justice A. Oak's committee for the translation of SC judgements** into regional languages.
- The **Kerala High Court published two of its recent judgments in Malayalam**, becoming the first HC in the country to publish judgments in the regional language.
- The Supreme Court formed an **Artificial Intelligence committee to develop a judicial domain language translation tool** called **SUVAS (Supreme Court Vidhik Anuwad Software)** to translate judgments from English to vernacular languages.
- Under the aegis of the Ministry of Law and Justice, the Bar Council of India has constituted '**Bharatiya Bhasha Samiti**' led by the former Chief Justice of India. The committee is developing a **Common Core Vocabulary** that is close to all Indian languages to translate legal material into regional languages.

The Article 370

News Excerpt:

A five-judge Constitution Bench of the Supreme Court (SC) upheld the Centre's decision to abrogate Article 370 of the Constitution through a presidential order issued on August 5, 2019.

About the Supreme Court Ruling:

- A Constitution Bench headed by Chief Justice of India D.Y. Chandrachud held that **Article 370** was intended to "**enhance constitutional integration** between the Union of India and the State of Jammu and Kashmir" and not cause any "disintegration".
- The Abrogation (Repealing) of **Article 370** in 2019 put Jammu and Kashmir on **par with the other states**.
- The entirety of the Indian Constitution and parliamentary laws would now apply to Jammu and Kashmir.

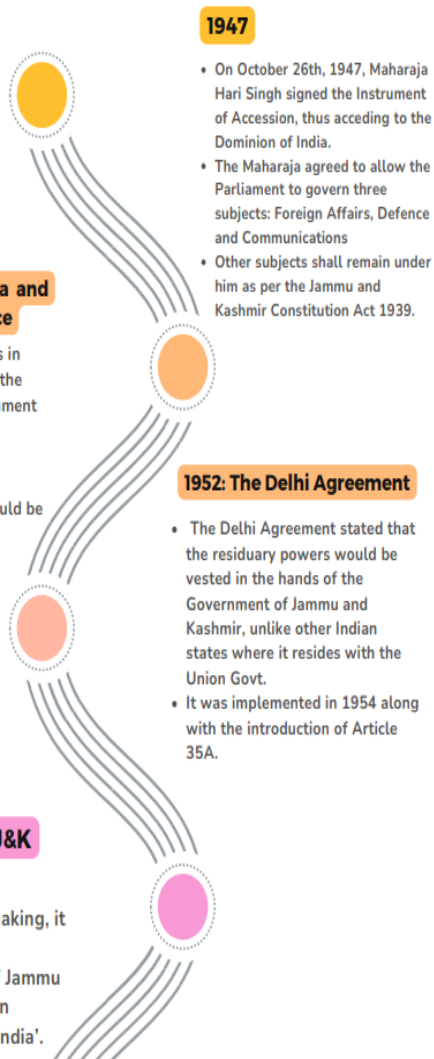
What is Article 370?

- Article 370 of the Constitution of India was a **temporary provision** that provided special status to the State of Jammu and Kashmir.
- It was temporary because the Constituent Assembly of Jammu and Kashmir had the **right to modify, delete, or retain it**, and it was considered temporary only until a plebiscite was held to ascertain the public opinion.
- The temporary provision of this Article is derived from **Part XXI of the Constitution under the title "Temporary, Transitional and Special provisions", which grants special status to the State of Jammu and Kashmir**.

Before and After abrogation of 370	
BEFORE	AFTER
Dual Citizenship	Single Citizenship
Special Powers Conferred	No Special Powers
Art 365 and 360 not applicable	Now applicable
Separate Flag	Tricolor will be the only flag
No reservation for Minorities	Reservation for Minorities
Separate Constitution	Constitution of India

Historical Background:

Article 370



1947

- On October 26th, 1947, Maharaja Hari Singh signed the Instrument of Accession, thus acceding to the Dominion of India.
- The Maharaja agreed to allow the Parliament to govern three subjects: Foreign Affairs, Defence and Communications
- Other subjects shall remain under him as per the Jammu and Kashmir Constitution Act 1939.

1950: Constitution of India and article 370 came into force

- India would not make laws in Jammu & Kashmir outside the scope set out by the Instrument of Accession, without the 'concurrence' of the state government.
- Only Article 1 and 370 would be applicable to J & K.

1952: The Delhi Agreement

- The Delhi Agreement stated that the residuary powers would be vested in the hands of the Government of Jammu and Kashmir, unlike other Indian states where it resides with the Union Govt.
- It was implemented in 1954 along with the introduction of Article 35A.

1956: Constitution of J&K comes into force.

After a five year process of making, it came into force. It made the declaration that 'The State of Jammu and Kashmir is and shall be an integral part of the Union of India'.

- In 1947, the Indian Independence Act was passed in the British Parliament; the former British colony was partitioned to create the Dominion of India and the Dominion of Pakistan.

- The Dominion of India became a Republic in 1950 with the enactment of the Constitution of India. However, the Dominion of Pakistan ceased to exist in the year 1956.
- On January 26 1950, the Constitution came into force along with this unique provision of Article 370.
- Jammu and Kashmir acquired its modern shape under Ranjit Singh.
- The people first named the valley as "Kashyap-Mar", meaning abode of Kashyap, and "Kashyap-Pura", meaning city of Kashyap, in Sanskrit.
- Hari Singh sought privileges for his people along the lines of a law that denied outsiders the right to own property.
- Maurya emperor Ashoka had a strong connection with Kashmir. He founded the city of Srinagar and brought Buddhism to Kashmir.
- Article 370 was therefore introduced in the Constitution to preserve the specific terms under which Kashmir had agreed to accede to India, unlike the other 565 princely states.
- Vallabhbhai Patel was given the credit for the country's successful integration.

Constitutional Bench

News Excerpt:

CJI D.Y. Chandrachud announced his intent to create Constitution Benches of varied strengths as a permanent feature of the Supreme Court.

Historical Background of Supreme Court (SC):

- India had three SCs during colonial times: Bombay, Calcutta, and Madras.
- The Indian High Courts Act of 1861 replaced the Supreme Courts with separate regions, while the Government of India Act 1935 created the Federal Court of India.
- The Supreme Court was founded on January 28, 1950, under Article 124 of the Constitution.
- The first SC had eight judges, including the Chief Justice of India (CJI). As the workload increased, the number of judges increased, with the current number being 34.

About Constitution Benches of the Supreme Court:

- Article 145(3) of the Constitution provides for the setting up of a Constitution Bench.
 - It says a minimum of five judges (odd numbers- 5,7,9, etc.) need to sit to decide a case involving a "substantial question of law as to the interpretation of the Constitution" or for hearing any reference under Article 143, which deals with the power of the President to consult the SC.

- The Court sits in benches of **varying sizes**, as determined by the Registry on the directions of the **CJI, the Master of the Roster**.
- Typically, cases before the Supreme Court are heard by Division Benches (of two or three judges) or Constitutional Benches (of five or more judges).

All India Judicial Services

News Excerpt:

During an event celebrating **Constitution Day** at the Supreme Court, the **President** of India **suggested** the establishment of an All-India Judicial Service (**AJS**).

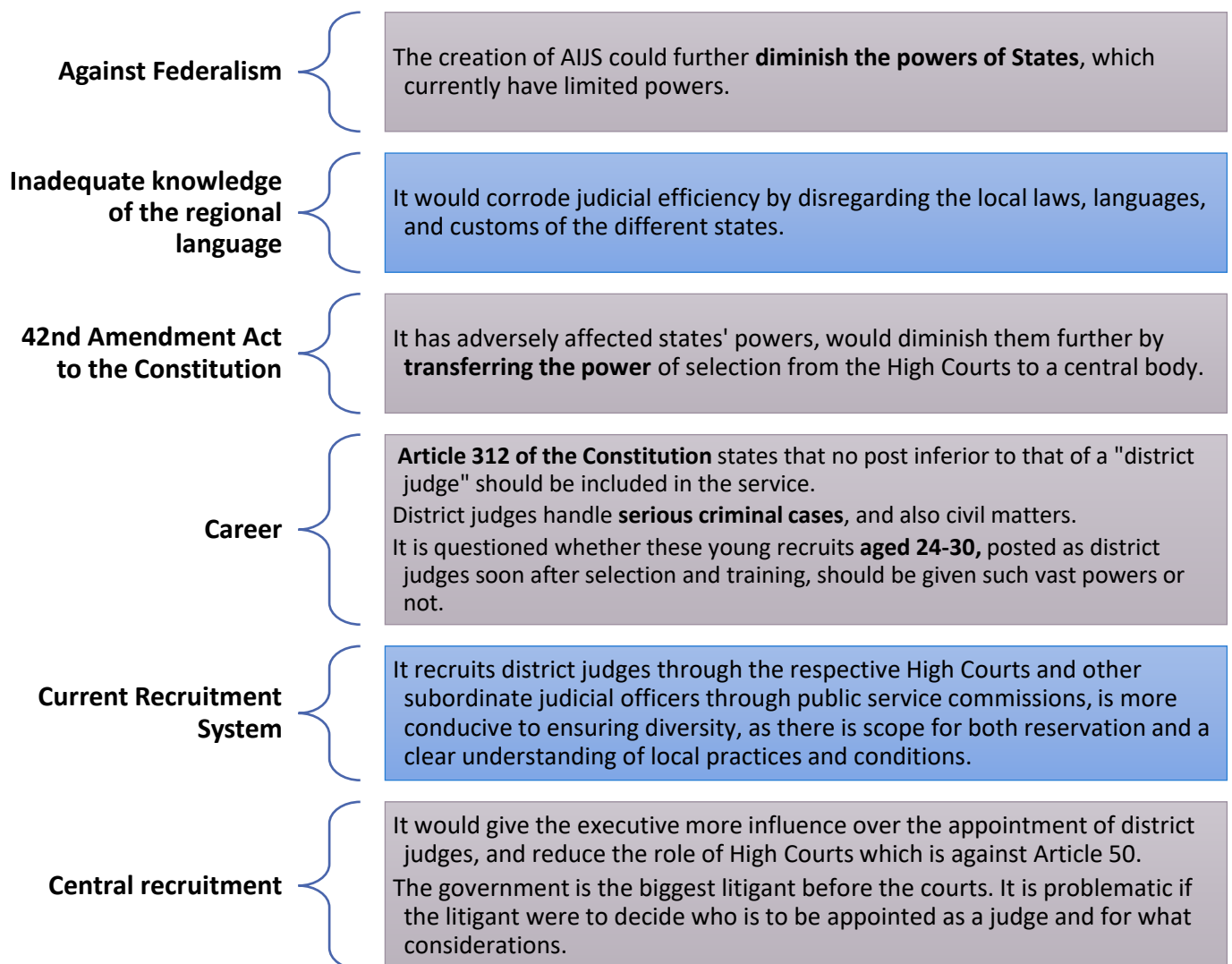
Need for AJS:

- **1st Law Commission in 1958** recommended the creation of an AJS for efficiency in the subordinate judiciary, addressing structural issues and ensuring standard training nationwide.
- **8th Law Commission 1978** also recommended it for delays and arrears in trial courts.

- **Chief Justice Conferences** in 1961, 1963, and 1965 supported AJS.
- **The National Judicial Pay Commission** supported AJS in 1999.
- **In 1992, the Supreme Court's** observation in the **All-India Judges case** suggested examining the feasibility of expediting the implementation of Law Commission recommendations to improve the health of the judiciary.

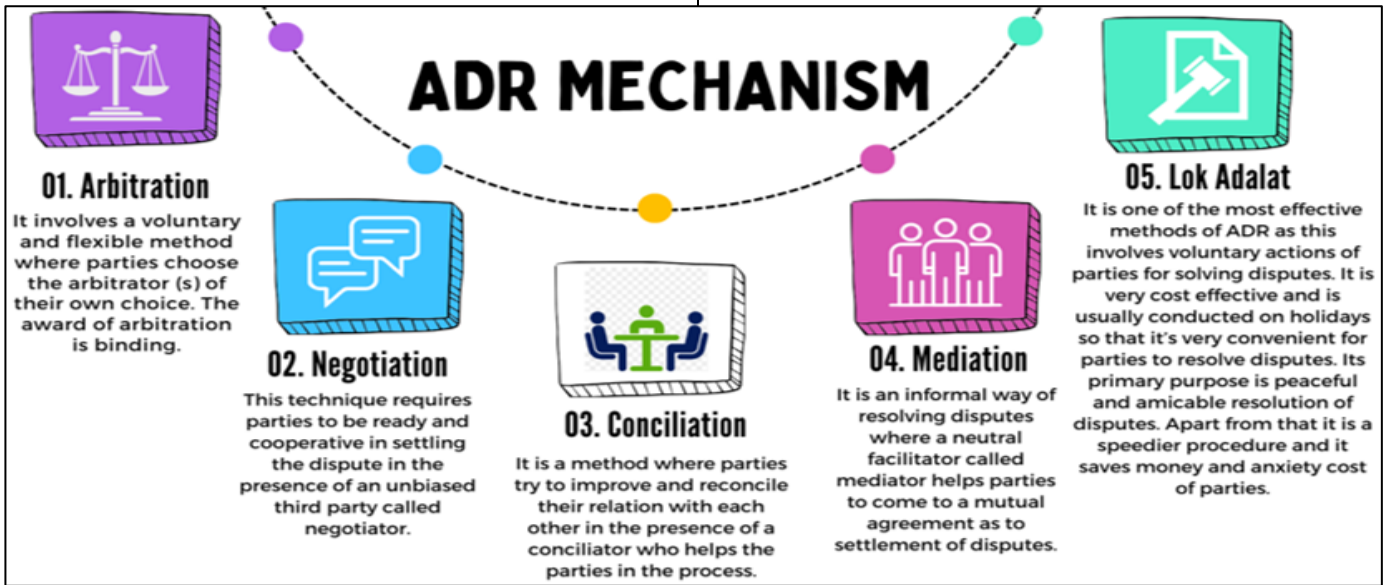
Constitutional Provision:

- **Article 312** of the Constitution provides for establishing All India Judicial Service (AJS) upon a **resolution by the Rajya Sabha** supported by at least two-thirds of its members.
- AJS shall **not include any post inferior to that of a District Judge**, i.e., it enables the creation of the AJS at the District Judge level.
- **Article 233**- appointment of District Judges by the Governor in consultation with High Court judges.
- **Article 234**- recruitment of persons other than district judges.



Current status:

- A comprehensive proposal was formulated for the Constitution of an All India Judicial Service (AIJS), and the Committee of Secretaries approved the same in 2012.
- State governments and high courts discussed the creation of AIJS, but their Opinions were significantly divided.
- As a result, major stakeholders do not currently agree on the proposal, and the issue needs further deliberation and consideration.



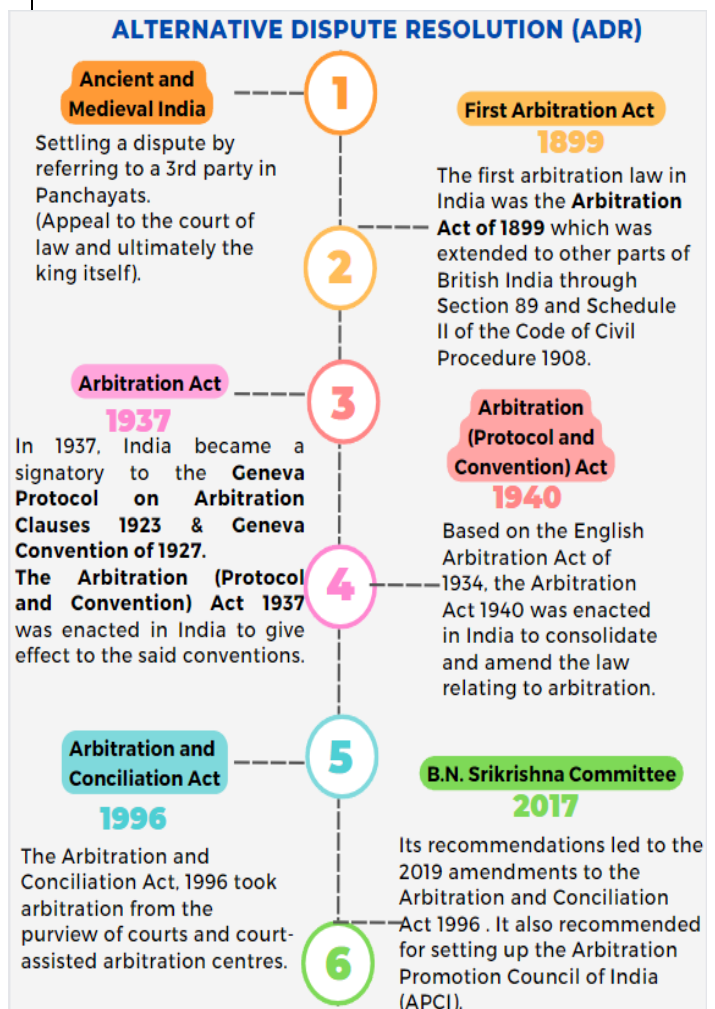
- Niti Aayog's 'Strategy for New India @75' report recommends that the AIJS exam maintain high standards, and the AIJS cadre should report to the Chief Justice in each High Court to preserve judicial independence.

Alternate Dispute Resolution

- Alternative dispute resolution (ADR) refers to the different ways people can resolve disputes **without a trial**.
- The most famous ADR methods are **mediation, arbitration, conciliation, negotiation, and Lok Adalats**.

The Arbitration and Conciliation (Amendment) Act, 2021:

- It amended the **Arbitration and Conciliation Act of 1996**.
- **Provisions:**
 - The amendment allows an **automatic stay on enforcement of any arbitral awards if the courts find any clear evidence that the award is influenced by fraud or corruption**. This change has been incorporated under Section 36 of this Act using Section 2 of the Principal Act.
 - Secondly, it **omitted the Eighth Schedule** from the principal Act and states that the **qualifications, experience, and norms for accreditation of arbitrations** will be specified under the regulations.
 - The Act contains provisions **to deal with domestic and international arbitration** and defines the law for conducting conciliation proceedings.



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Lok Adalat

News Excerpt:

The Legal Aid System in India is in an alarming situation.

What is Lok Adalat?

- Lok Adalat is one of the forums for **alternative dispute redressal mechanisms** where disputes/cases pending in the Court of law or at the pre-litigation stage are settled.
- Lok Adalats has been given **statutory status** under the **Legal Services Authorities Act of 1987**.
 - Under the Act, the decisions made by the Lok Adalats are deemed to be a **decree of a civil court** and are **final and binding** on all parties, and **no appeal against such an award** lies before any court of law.
- If the parties are not satisfied with the award of the Lok Adalat, they are **free to initiate litigation** by approaching the Court of **appropriate jurisdiction** and filing a case by following the **required procedure** in the exercise of their right to litigate.

Nature of Cases to be Referred to Lok Adalat:

- Any case pending before any court.
- Any dispute that has not been brought before any court and is likely to be filed before the Court.
 - Any matter relating to an offence **not compoundable under the law shall not be settled in Lok Adalat**.

Legal Aid System and National Legal Aid Service Authority (NALSA):

- NALSA was Established under the **Legal Services Authority Act of 1987**.

- NALSA endeavours to ensure that the poor, disadvantaged, and weaker members of society have access to equal justice.
- It operates at both the **national and sub-national levels** using institutional arrangements that are explicitly designated, intending to ensure access to justice is affordable for those in need as follows:
- NALSA obtains its authority from the **Legal Services Authority Act of 1987**.
 - **Articles 14 and 22(1)** also mandate the State to guarantee equal treatment under the law and a legal system that advances justice by providing equal opportunities to all.
- A High-Level Committee under **Justice Sri B N Krishna** was set up to review India's Institutionalization of Arbitration Mechanisms.
 - On the recommendation of the committee, the Union Government amended the Arbitration and Conciliation Act in 2018.

India Justice Report 2022

- India Justice Report ranks individual Indian states in relation to their capacity to deliver access to justice.
- The report is released by the **Tata Trust**.
- According to it, Legal aid saw increased infusions from Centre and State exchequers. Prisons saw an improvement in funds between 2020 and 2021.

EXECUTIVE

Role of Governors in Legislature

The Supreme Court (SC) agrees with the Tamil Nadu government's argument that the **Constitution** does **not** provide the Governor the "**discretion**" to **withhold** the 10 bills it re-enacted or refer them to the President.

- Previously, the Punjab and Kerala state governments **petitioned** the SC, requesting that it **instruct Governors** on how long they can **postpone assent** to bills passed by state assemblies.

Constitutional status:

- **Article 154:**
 - It states that the **executive power** of the State shall be vested in the Governor and **shall be exercised by him either directly or through officers subordinate** to him in accordance with this Constitution.

• Article 200:

- It gives four alternatives to the Governor when a bill is presented to him after a state legislative assembly (and the legislative council, wherever existent) passes it. The Governor can -
 - **assent** to the bill,
 - **withhold** assent,
 - **send it back** to the **Assembly** to reconsider it, **or**
 - send it to the **President** for his/her consideration.
- The Governor has to assent to the bill even if the Assembly passes the bill again without accepting any of the Governor's suggestions.
- The Governor can refer a bill to the President if the bill encroaches upon any rights of the **High Court**

or, in the Governor's discretion, a subject in the **Concurrent list**.

- **Article 201:**
 - When a bill is reserved for the consideration of the President, s/he **may assent** to or **withhold assent** from the bill.
 - The President may also **direct the Governor** to return the bill to the House or Houses of the Legislature of the State for reconsideration.
- **Article 361:**
 - The **Governor** has complete **immunity** from **court proceedings** for any act done in the exercise of their powers.
 - This provision poses a unique situation when a government may need to **challenge** a **Governor's action** of withholding assent to a Bill.
 - In this case, the Governor should **disclose** the **reason** for such **refusal** since, being a high constitutional authority, they cannot act arbitrarily.

Concerns associated with the Powers of Governor:

“Reservation of bill”:

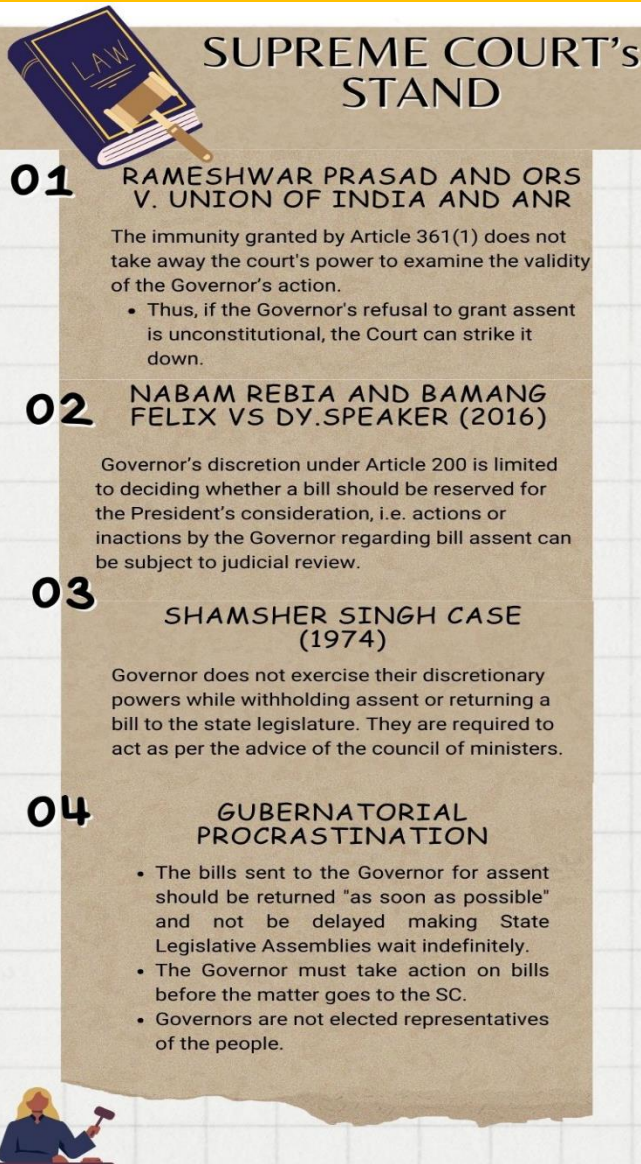
- The Governor, by sitting on a bill passed by the Assembly, is acting **against** the **Constitutional direction**.
- However, the Governor can **reserve** a bill and **not grant assent** in certain circumstances. This includes if the bill is -
 - against the **provisions** of the Constitution,
 - opposed to the Directive Principles of State Policy (**DPSP**),
 - against the **larger interest** of the country,
 - of grave **national importance** or
 - deals with the compulsory **acquisition of property** under **Article 31A** of the Constitution.
 - Those which reduce the powers of the **High Court**.
 - Bills on **concurrent list subjects** that are repugnant to a Union law based on ministerial advice.

“Withholding assent”:

- The situation of “withholding assent” may arise in case of a **Private Members’ Bill** (any Member of State Legislature other than a Minister) passed by the state legislature, which the council of ministers do not want to be enacted into law.
 - In such an instance, the **council of ministers** would **advise** the Governor to “withhold assent.”
 - However, this is an unlikely scenario as the council of ministers who enjoy a majority in the legislative Assembly would not allow the passage of such a bill.
- If the incumbent government whose bill has been passed by the legislature falls or resigns before it is assented to by the Governor, in that case, the **new council** may **advise** the Governor to “withhold assent.”

“Returning the bill”:

- The return of any bill to the state legislature for reconsideration is also to be done based on **ministerial advice**.
 - Governors in the past have exercised their discretion in returning bills, like the Tamil Nadu Governor, concerning the **bill** prohibiting **online gambling**.
 - However, the Governor **shall assent** to such a bill if it is passed again by the state legislature.



SUPREME COURT'S STAND

01 RAMESHWAR PRASAD AND ORS V. UNION OF INDIA AND ANR

The immunity granted by Article 361(1) does not take away the court's power to examine the validity of the Governor's action.

- Thus, if the Governor's refusal to grant assent is unconstitutional, the Court can strike it down.

02 NABAM REBIA AND BAMANG FELIX VS DY.SPEAKER (2016)

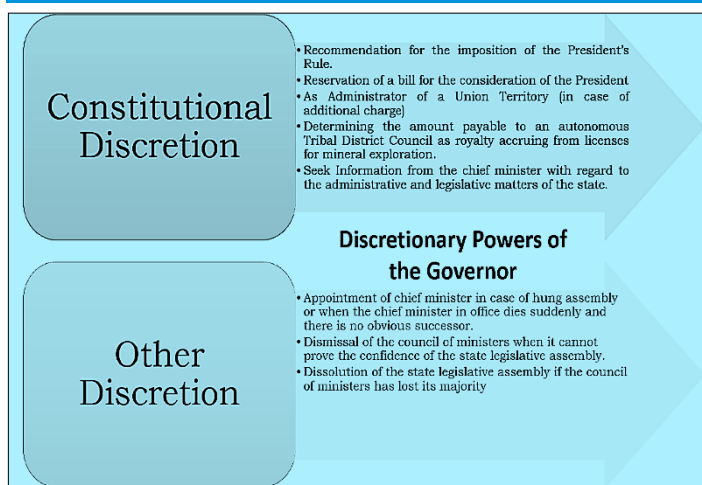
Governor's discretion under Article 200 is limited to deciding whether a bill should be reserved for the President's consideration, i.e. actions or inactions by the Governor regarding bill assent can be subject to judicial review.

03 SHAMSHER SINGH CASE (1974)

Governor does not exercise their discretionary powers while withholding assent or returning a bill to the state legislature. They are required to act as per the advice of the council of ministers.

04 GUBERNATORIAL PROCRASTINATION

- The bills sent to the Governor for assent should be returned "as soon as possible" and not be delayed making State Legislative Assemblies wait indefinitely.
- The Governor must take action on bills before the matter goes to the SC.
- Governors are not elected representatives of the people.



Delimitation Commission

News Excerpt:

Implementing the reservation provision in the **Women's Reservation Act** is contingent on two processes — a **delimitation exercise** and a **Census**.

About:

Delimitation:

- Delimitation is **redrawing** Parliamentary and Assembly **constituencies** based on the latest **population data**. As populations change, there is a **need to readjust** the number and boundaries of the constituencies so that every person's vote carries similar weight.
- Apart from population figures, delimitation also aims at a **fair division of geographical areas** into seats to guard against allegations of **gerrymandering**, which means redrawing seat boundaries so that **no political party** has an unfair **advantage** over another.
- It is conducted by an **independent** Delimitation Commission (a high-power body).

Constitutional Provisions:

- **Article 82:** It mandates the “**readjustment**” in **allocating seats** to every State in Lok Sabha **upon completion of each Census**.
- **Article 327:** Parliament may, from time to time, by law, make provision with respect to all matters in connection with the elections, including **delimitation of constituencies**.
- **Article 329:** It bars a challenge to the validity of such a law before **any court**.

Next delimitation:

As per the current provisions in the Constitution, the next delimitation exercise should occur based on the **first Census conducted after 2026**, which would now happen after the **2031 Census**.

LEGISLATIVE

No Confidence Motion

News Excerpt:

The Lok Sabha Speaker accepted a no-confidence motion moved by the Opposition against the Government. It was defeated in the Lok Sabha.

About no-confidence motion:

- As per Article 75(3) of our Constitution, the Council of Ministers is collectively responsible to the Lok Sabha (Lower House).
- In a parliamentary democracy, a government remains in power only if it commands a majority in the directly elected House. It must demonstrate its strength on the floor of the House.
- For testing this collective responsibility, the rules of Lok Sabha provide for this no-confidence motion. While defending the parliamentary system over a presidential system, B.R. Ambedkar stressed that the former provided accountability.
- **A no-confidence motion can only be moved in the Lok Sabha.**
- No reasons need to be given for moving this motion.

Delimitation Commission:

- It is a **quasi-judicial** body appointed by the **President** of India and collaborates with **the Election Commission of India**.
- It is comprised of a **retired Supreme Court judge**, **Chief Election Commissioner**, and respective **State Election Commissioners**.
- The copies of its orders are laid before the Lok Sabha and the **State Legislative Assembly** concerned, but **no modifications** are permissible therein by them.

The procedure/process for a no-confidence motion:

- Any Lok Sabha MP can introduce the motion if he/she has the support of 50 other Lok Sabha members.
- **Under Rule 198 of the Rules of Procedure and Conduct of Lok Sabha**, a member must move a written notice before 10 am, which will be discussed within 10 days of the written motion being submitted.
- The Speaker has the discretion to allot time for discussion of the motion.
- Thereafter, the motion is discussed. MPs who support the motion highlight the Government's shortcomings, and the Treasury Benches respond to their issues.
- Finally, a vote takes place – if a motion is passed by majority, the Government is bound to vacate the office. If the Government wins the vote, the motion stands defeated, and the Government remains in power.
- The motion will be passed if it is supported by a majority of the members of the House.

CC_COMPILATION_POLITY

- The voting may be taken up through voice vote, division of vote, or other means.
- The Constitution of India allows for a maximum of 550 members in the House (**the provision of reservation of 2 seats for Anglo-Indians was abolished by the 104th Amendment to the Constitution**).
- At present, the Lok Sabha has 543 seats filled by elected representatives. Hence, the majority mark at the Lok Sabha is 272.
- In India, every party appoints a **Chief Whip** whose duty is to ensure the party MPs' attendance in the House for important motions like the 'No-Confidence'.
- Direction is given to all the MPs to vote in a particular manner. Any violation of these directions can result in disqualification of the MP (**10th schedule-anti defection law**).

No-confidence motion	Censure motion
No need to mention the reason for this.	Need to mention the reason for this.
It is against the entire council of ministers.	It can be moved against a single minister, more than one minister, or against the entire council of ministers.
The objective is to check whether the Government enjoys the confidence of the House.	The objective is to censure the Government for a particular policy or action.
If passed, the Government has to resign.	Even if it is passed, the Government does not resign.

Rules of procedure and conduct of business in Parliament

News Excerpt:

The Rajya Sabha Chairman did not accept two notices under **Rule 267** of the House for discussion on the border issue with China and the rising prices of essential commodities. Both were moved by the Opposition.

About:

- **Article 118(1)** of the Constitution empowers each House of Parliament to make rules regulating its Procedure and Conduct of business.
- The **Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business** in force immediately before the commencement of the Constitution of India were modified and adopted by the Speaker of Lok and published under the title "Rules of Procedure and Conduct of Business in the House of the People" in the Gazette of India in 1952.

- Rajya Sabha adopted rules for regulating its procedure and the conduct of its business on June 2, 1964. The rules were brought into force with effect from July 1, 1964.

Modification/amendments in the rules:

- Those Rules were amended by the Speaker from time to time on the recommendations of the Rules Committee of the House.
- In December 1956, the Rules Committee recommended that the rules contained in the Fourth Edition of the Rules, as amended from time to time, might be approved by the House under Article 118(1) of the Constitution.
- The House agreed. So, the Amendment to the rules has been approved by the respective House.

About Rule 267 of Rajya Sabha:

- The Rajya Sabha rule book defines "Rule 267" under "suspension of rules" as an instance where "any Member, may, with the consent of the Chairman, move that any rule may be suspended in its application to a motion related to the business listed before the Council of that day and if the motion is carried, the rule in question shall be suspended for the time being."
- Rule 267 of the Rajya Sabha rulebook allows for the suspension of a day's business to debate an issue suggested by a member.

Previous Instances:

- In 11 instances between 1990 up till 2016, this rule was invoked for various discussions.
- It was Invoked for the "Gulf War" in 1991 when Vice-President Shankar Dayal Sharma was presiding, to debate "corruption" when Bharon Singh Shekhawat was Chairman and under Mr. Hamid Ansari, it was used four times to debate the "role of CBI in the Coalgate scam", "attack on the secular fabric of the country", "agrarian crisis" and "demonetization of currency."
- The National Commission for Review of the Constitution (Venkatchaliah Commission) recommends changes in rules, such as the minimum number of sittings of Parliament: 120 days for the Lok Sabha and 100 days for the Rajya Sabha.

Money Bills vs Financial Bills

News Excerpt:

Apprehensions about introducing the Digital Personal Data Protection (DPDP) Bill as a Money Bill.

About:

- Difference between Money bill and Finance bill.

CC_COMPILATION_POLITY

Money Bill	Finance Bill
<ul style="list-style-type: none"> ○ Article 110 deals with money bills. ○ Prior recommendation of the President is required. ○ Can be introduced only in Lok Sabha. ○ Can be introduced only by a Minister. ○ Lok Sabha speaker declares the bill as a money bill. ○ Rajya Sabha can only make recommendations, which can be accepted or rejected by Lok Sabha. ○ Rajya Sabha can keep the bill pending for a maximum of 14 days. After 14 days, it is considered passed by the Rajya Sabha. ○ There is no provision for Joint sitting. ○ The President can either give assent or withhold assent, but s/he cannot return the bill. 	<ul style="list-style-type: none"> ○ Article 117 deals with finance bills. ○ A prior recommendation from the President is not required. ○ Finance Bill I can be introduced in Lok Sabha, while Finance Bill II can be introduced in either House. ○ Can be introduced by a Minister or a Private member. ○ It doesn't require speaker certification. ○ Rajya Sabha can amend or reject it. ○ Rajya Sabha can keep the bill pending for 6 months. ○ Provision of Joint sitting is available. ○ President can give assent, withhold assent, or even can return the bill.

Prerequisites for any Finance Bill to become a Money Bill

- It must **only** be introduced in the **Lok Sabha** and not the Rajya Sabha.
- Bill can **only** be introduced on the **President's recommendation**.

Adjournment Motion

News Excerpt:

Two Congress MPs moved adjournment motions in the Lok Sabha, citing the need for urgent discussions on the ethnic violence in Manipur.

About:

- Adjournment Motion (**Rule 56-Lok Sabha**): This procedure is available to draw the attention of the Government on a definite matter of urgent public.
- It requires the **support of at least 50 members**. If the motion is accepted by the Speaker, the House adjourns, and scheduled business is set aside to discuss the issue.
- The Speaker shall prescribe a time limit for discussion with a minimum of 2.5 hours.

Conditions for this motion:

- It should cover only one matter, which is definite, urgent, and recent. It should not raise matters of privilege or be under consideration by the judiciary.
- **A member can file only one adjournment motion per session**. If adopted, it is always put to vote. The rules under the Government of India Act of 1919 created this rule.

Lok Sabha Ethics Committee

News Excerpt:

Lok Sabha Ethics Committee is looking into "The Cash for Query" case referred by the Lok Sabha Speaker on a Member of Parliament who is facing inquiry over bribery and misconduct allegations.

Parliamentary Ethics Committee:

- This committee was constituted in Rajya Sabha in 1997 and Lok Sabha in 2000.
- The Speaker appoints members of the committee for a term of one year.
- It examines the cases of unethical conduct referred to by the Speaker and recommends appropriate action.
- The committee report is presented to the Speaker, who asks the House if the report should be taken up for consideration. There is also a provision for a half-an-hour discussion on the report.
- Thus, it maintains discipline and decorum in Parliament and enforces the code of conduct of members of Parliament.

Differences with the Privilege Committee:

Privileges Committee	Ethics Committee
<ul style="list-style-type: none"> • It deals with cases of breach of privilege or contempt of Parliament by MPs or non-MPs. • It recommends punitive actions against those found guilty, including warning, reprimand, suspension or expulsion from Parliament. 	<ul style="list-style-type: none"> • It deals with cases of ethical misconduct or violation of the code of conduct by MPs only. • It recommends corrective actions against those found guilty, including apology, censure, withdrawal of parliamentary facilities or privileges, or removal from parliamentary committees.

Parliamentary privilege

News Excerpt:

The leader of the Opposition in the Rajya Sabha said that turning off the mic in-house is a breach of Parliamentary Privilege.

About

- Parliamentary privilege refers to **rights and immunities enjoyed by Parliament as an institution and MPs in their individual capacity**. It helps them discharge their functions effectively.
- **Article 105** of the Constitution grants privileges to MPs. However, privileges are not codified.
- Privileges are based on five **sources**: Constitutional provisions, various laws made by Parliament, Rules of both the Houses, Parliamentary conventions, and Judicial interpretations.

Privileges:

- **Freedom of Speech in Parliament**: No liability before any Court for anything said or any vote given in the Parliament or any committee of Parliament.
- The members enjoy **freedom from arrest in any civil case 40 days prior to and after the session**. Need of permission of presiding officer of the House for the arrest of a member from premises of the House.

Mixed Member Proportional System

News Excerpt:

The comparison between Auckland (New Zealand) and Odisha shares a stark difference in terms of human development indicators but resembles it in terms of political behaviour.

About MMP System:

- The MMP system allows voters to cast two votes, **one for the local candidate and another for the political party**.
- New Zealand uses the **Mixed Member Proportional (MMP) system**.
- It permits voters to **choose candidates from different parties for the local and national levels** without affecting the overall party representation in Parliament.

First-Past-The-Post (FPTP) System:

- It is also known as the simple majority system.
- In this voting method, the candidate with the highest number of votes in a constituency is declared the winner.
- This system is used in India in direct elections to the Lok Sabha and State Legislative Assemblies.

- While FPTP is relatively simple, it does not always allow for a truly representative mandate, as the candidate could win despite securing less than half the votes in a contest.

Special Session of the Parliament

News Excerpt:

The **Special Session** of the Lok Sabha was adjourned **sine die**.

- **Adjournment sine die** means terminating a session **indefinitely**, i.e., without setting a day or date for reassembly.

Special Session or Emergent Parliament Session:

- The **Constitution** does **not** use the term **"special session."**
 - The term sometimes refers to sessions the Government has convened for **specific occasions**, like commemorating parliamentary or national milestones.
- **Article 85** of the Constitution deals with the **summoning** of Parliament's sessions and their **prorogation** and **dissolution**.
 - It allows the President of India to summon each House of Parliament to meet "from time to time" and mandates that two successive sessions be held within six months.
- **Rule 3** of the **Rules of Procedure and Conduct of Business** in the **Lok Sabha** is derived from this Article.
 - It says that summons could be issued to Members of Parliament to attend an emergent Lok Sabha session.
 - The corresponding rule for the **Rajya Sabha** is also **Rule 3**, with the same provision for an emergent session.
- **Article 352** also mentions a **special sitting** of the House during a **national emergency**.
- Therefore, the **power to convene a session** of Parliament rests with the **Government**. The **Cabinet Committee on Parliamentary Affairs** takes the decision and is formalized by the President, in whose name MPs are summoned to meet for a session.

Previous Special Sessions:

- The first-ever special session of the Parliament was convened on **14 and 15 August** to mark **India's independence**.
- During the **India-China war** in 1962, another special session was called on the 8th and 9th of November under the leadership of Prime Minister Jawaharlal Nehru to discuss the incursion made by China.

- On **August 15 1972**, a special session was called to mark the **Silver Jubilee** of India's **Independence**.
- A **midnight session** was called on **August 9 1992** to celebrate the **50th anniversary** of the '**Quit India Movement**'.
- On **August 15 1997**, a midnight session was convened to mark **50 years** of India's **Independence**.
- The **last time** Parliament held such a **special session** was in **2017**. The Government rolled out the Goods and Services Tax in a **midnight sitting** of both the Lok Sabha and Rajya Sabha.
 - This was the **first special session** of Parliament where a **bill was discussed**. All previous such sessions were convened to commemorate historical events.

Urban Local Bodies

News Excerpt:

An **Annual Survey of Indian Cities** shows that most local governments depend financially on their State governments.

Evolution of Local Self-government in India:

- The **first Municipal Corporation** was set up in the former Presidency Town of Madras in 1688, followed by similar corporations in Bombay and Calcutta in 1726.
- Elected local self-government bodies came into existence after 1882, when **Lord Rippon** took the initiative to create these **local boards**.
- Over a period, these village bodies were converted to form Panchayats.
- After the **Government of India Act in 1919**, village panchayats were firmly established in several provinces.
- While **Lord Rippon** is widely known as the **father of local self-government**, **Mahatma Gandhi** is also regarded as a key player in decentralizing political and economic power at the grassroots levels.
 - Gandhi supported the strengthening of village panchayats and **ensured the involvement of local self-governments in all developmental initiatives**.
 - **Panchayats**, or **Panchayati Raj**, is one of India's oldest local self-government systems. The word 'Panchayat' means an assembly (ayat) or five (panch) people who rule (raj).
- The **73rd and 74th Constitutional amendments** made it mandatory for every State to have rural and urban local self-governments in place and the mechanisms to fund these bodies and also to carry out elections every five years.

- This ensured that rural and urban local bodies were given **Constitutional status** with uniformity in their functioning and structure across India.
- At present, there are over 250,000 local self-government bodies across the country, with over 3.1 million elected representatives. Out of this, 1.3 million representatives are women.

ELECTIONS

Criminalization of Politics

News Excerpt:

The **Association for Democratic Reforms (ADR)** wrote a letter to the Election Commission of India (ECI) urging the Commission to take action against political parties that have failed to disclose the criminal backgrounds of candidates they have nominated in various assembly elections conducted in recent years.

The **Annual Survey of India's City - Systems (ASICS) 2023** was published by the 'Janaagraha Centre' for Citizenship and Democracy, a non-profit institution.

About:

- The **criminalization of politics** implies the participation of criminals in politics, which means that persons with criminal backgrounds contest in the election and get selected as members of Parliament or state legislature.
- According to ADR, after the **2019 Lok Sabha elections**, **about 43% of the newly-elected MPs had pending criminal cases against them**. Alarming, nearly 30 per cent of these candidates were **accused of grave offences**, including rape and murder.

The Association for Democratic Reforms (ADR):

- The ADR is an **electoral watchdog** established in 1999 by a group of professors from the **Indian Institute of Management (IIM) Ahmedabad**.
- It wrote to the Election Commission **seeking action against parties** that fail to publish details of criminal antecedents of candidates as per orders of the Supreme Court.
- For years, activists and independent electoral watchdogs like ADR have been raising concerns over political parties fielding **candidates with criminal antecedents**.
- ADR is seeking strict action to be initiated against the defaulting political parties that had contested assembly elections in the last couple of years.

Legal provisions for disqualification of criminal candidates

- ❖ In a decision of the **Supreme Court**, the **Representation of People Acts (RPA) 1951** was amended by inserting **section 33-A** which requires a candidate to **furnish information** on whether S/he is accused of any offence with imprisonment of two years or any pending cases in which charges have been framed and whether they have been convicted for one year or more.
- ❖ In **Public Interest Foundation vs. Union of India (2019)**, Supreme Court ordered political parties to publish the criminal records of their candidates on their websites, social media handles and newspapers.
- ❖ The RP Act 1951 mentions the **criteria to disqualify** a person from contesting the election:
 - **Section 8** of the Act says that a person punished with a jail term of more than two years cannot contest an election for six years after the jail term has ended.
 - The law **does not bar any person** who has criminal cases pending against them. Therefore, the disqualification of candidates with criminal backgrounds depends on their conviction.
- ❖ The **Law Commission, in its 179th report**, recommended:
 - People with criminal backgrounds should be disqualified for five years or until acquittal.
 - Person who wants to contest the election must furnish details regarding any pending case, with a copy of the FIR/complaint, and furnish details of all assets.

- In case of a split in a political party outside the legislature, the **Symbols Order 1968** states:
 - Commission is satisfied that there are **rival sections or groups** of a recognized political party each of whom claims to be that party.
 - Commission should take into **account all the available facts** and circumstances of the case and hear their representatives.
 - Then, **it may decide** whether one such rival section or group or none of such rival sections or groups is a recognized political party.
 - The decision of the Commission **shall be binding** on all such rival sections or groups.
- This applies to disputes in recognized national and State parties (like the Shiv Sena).
- For splits in **registered but unrecognized parties**, the ECI usually advises the warring factions to resolve their differences internally or to approach the court.
- The **first case** to be decided under the 1968 Order was the first **split in the Indian National Congress in 1969**.

Methods of Dealing with Party Splits and Defections

- The **Tenth Schedule** to the Constitution does **not allow a legislator to switch party** loyalties through voting against party direction on the floor of the House or through actions outside the House.
 - **Immunity** is available to defectors when **two-thirds or more legislators** in that House merge with any other party.
- After a close reading of the provisions of the Tenth Schedule, the Supreme Court in **Subhash Desai vs. Principal Secretary, Governor of Maharashtra (2023)** states that:
 - Only the political party can appoint the leader of the legislature group and the whip.
 - Drew a distinction between a political party and a legislature party.
- Before 1968, the EC issued notifications and executive orders under the **Conduct of Election Rules, 1961**.
 - The most high-profile split of a party before 1968 was that of the Communist Party of India (CPI) in 1964.
 - The ECI recognized the faction as CPI(M) after it found that the votes secured by the MPs and MLAs supporting the breakaway group added up to a significant amount in states.
- The ECI felt that merely having MPs and MLAs was **not enough to claim the political party**, as the elected representatives had fought and won polls on tickets of their parent (undivided) parties.

Splits in Political Parties

News Excerpt:

A recent split **in the Nationalist Congress Party (NCP)** has again raised the issue of splits in Political Parties.

How does EC decide on splits within parties?

- The Election Commission of India (ECI) fundamentally draws its power of superintendence, direction and control of elections from **Article 324 of the Constitution**.
- Parliament has accorded specific powers and duties to the ECI through the **Representation of People Act of 1951**. The Act, through **Section 29A**, gives ECI the power to register political parties.
- Splits in India's political parties over issues of leadership are not uncommon.

- It **introduced a new rule** under which the splinter group (other than the group that got the symbol) had to register itself as a separate party, and could lay claim to national or State party status only on the basis of its performance in the State or the central elections after registration.

Contemporary Issue:

- ✓ The **novel method in the case of Shiv Sena** involved defectors claiming that they were the party, and hence, there was no question of defection.
- ✓ According to the Supreme Court in **Sadiq Ali v Election Commission of India** (1971), in such cases the test of majority, test of party constitution, and the test of aims and objectives can be used.
- ✓ In Shiv Sena's case, the **ECI rejected the latter two tests**, because both factions were claiming to act in furtherance of the aims and objectives of the party, and the **party constitution** did not promote intra-party democracy.
- ✚ The **170th Law Commission Report** had recommended the addition of a **Part IV-C to the Representation of People Act** to regulate the internal functioning of parties.

Lowering the age of contesting elections

News Excerpt:

The Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice recommended lowering the minimum age for contesting Lok Sabha and Assembly elections from 25 years to 18 years.

About:

- **Article 84** of the Constitution: The minimum age for becoming a candidate for the Lok Sabha election shall be 25 years and for Rajya Sabha, it is 30 years.
- **Article 173:** The minimum age to becoming a candidate for state assembly (Vidhan Sabha) shall be 25 years and for state legislative council (Vidhan Parishad) shall be 30 years.
- **Minimum age of voting: The 61st Amendment to Constitution** in 1988, lowered the voting age of elections to the Lok Sabha and the Legislative Assemblies of States from 21 years to 18 years.
- **Present scenario:** 47% of MPs (**in 2019**) were over the age of 55, while India's median age was 27.9 years (**as per PRS Legislative Research**).
 - This shows that youth are not represented proportionately in Parliament. The same is the scenario in states.

Election Commission's power to regulate Political Parties

News Excerpt:

The Election Commission of India (ECI) has been vested with the authority to **register** associations of bodies or individuals of a **political party** in terms of **Section 29A** of the Representation of People Act (RPA), 1951.

- **Section 29A of RPA, 1951:** A party seeking registration has to apply the ECI within **30 days** following its formation as per **guidelines** prescribed by the ECI in exercising the **powers** conferred by **Article 324** of the Constitution.
- Political alliances are **not** recognized as **regulated entities** under the RPA or the Constitution.
- The **Kerala High Court** in the case of **Dr George Joseph Themplangad v. Union of India & Ors.** held that **there is no statutory provision mandating the ECI to regulate the functioning of political alliances.**

Powers of ECI:

Administrative Authority

- To establish the **boundaries of electoral seats** for various elections.
- To **register any political party** and monitor its election expenditures.
- To guarantee the application of the "**Model Code of Conduct**" for political campaigns.
- To designate representatives from various civil services as **observers for elections and expenditures.**

Advisory

- To the **President of India** about the circumstances behind the **disqualification** of members of Parliament.
- To **Governors** on the disqualification of state legislature members.
- To the **Supreme Court** and the **High Courts** in **post-election disputes** between candidates and political parties.

Quasi-Judicial

- Resolve disagreements over the recognition of political parties and candidates.
- Preside over cases involving **disagreements over the distribution of electoral emblems** to political parties and candidates.
- The **State Election Commission** oversees the elections for municipalities and panchayats and is **advised by and accountable to the ECI.**

Simultaneous Elections

News Excerpt:

The Union Government formed a committee under former **President Ram Nath Kovind** to look into the feasibility of simultaneous elections to State Assemblies and the Lok Sabha.

- Over the years, the Prime Minister has pushed for simultaneous Lok Sabha and State Assembly polls.

History of Simultaneous Elections:

- In India, simultaneous elections to the Lok Sabha (House of The People) and Vidhan Sabhas (State Legislative Assemblies) were held in the years **1951-52, 1957, 1962 and 1967**.
- Thereafter, however, the **schedule could not be maintained**, and the elections to the Lok Sabha and the Vidhan Sabhas have still not been realigned.

Constitutional provisions for holding simultaneous elections:

- In the 2018 report, the **Law Commission** headed by Justice **B S Chauhan** held that simultaneous elections could not be held within the existing framework of the Constitution.
- These could be held together "through appropriate amendments to the Constitution, the **Representation of the People Act 1951**, and the **Rules of Procedure of Lok Sabha and State Assemblies**.

The articles that would require Amendment are:

- Article 83 (2):** The Lok Sabha's term should not exceed five years but may be dissolved sooner.
- Article 85 (2) (B):** A dissolution ends the very life of the existing House, and a new House is constituted after general elections.
- Article 174 (2) (B) -** The Governor has the power to dissolve the Assembly on the aid and advice of the cabinet. The governor can apply his mind when the advice comes from a Chief Minister whose majority is in doubt.

MISC

Violence in Manipur

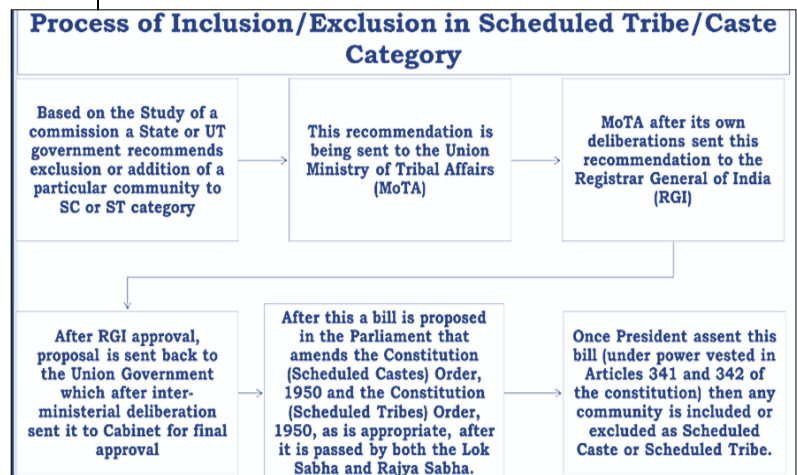
News Excerpt:

Manipur High Court verdict directing the State to pursue a **10-year-old recommendation to grant Scheduled Tribe (ST) status to the non-tribal Meitei community** has resulted in violent clashes.

Understanding Manipur Divide

- Manipur as a state is geographically divided into Valley (which comprises about 10% of Manipur's landmass) and Hill districts.
- Hills are dominated by the tribes such as Kukis and Nagas. Valley is dominated by Meiteis.
- The current conflict is the extension of the hill vs plains conflict. Overall, in Manipur Meiteis accounts for 53% of the population while tribal communities account for 40% of the total population (24% Naga and 16% Kuki/Zomi).
- There exist several conflicts between multiple communities, which have resulted in massive violence and loss of lives.

Committee Name	Criteria Recommended
Lokur Committee	<ul style="list-style-type: none"> Primitive Traits Distinct Culture Geographical Isolation Shyness of contact with the community at large Backwardness.
Xaxa Committee	<ul style="list-style-type: none"> Livelihood and employment Education Health Involuntary displacement and migration Legal and constitutional matters.



Cause of Present Conflict

- In 2015, Meiteis **demand an Inner Line Permit (ILP) system for Imphal city**, which was protested by tribals because this permit would restrict their entry into the Valley.
- The delimitation exercise in 2020 caused discontent among the Meitei community** who alleged that the census figures do not reflect the population break-up. While tribal groups were not happy with their underrepresentation in the Assembly.
- In 2021, **a coup in Myanmar created a refugee crisis in India's Northeast**. Meiteis argue that this has created a sudden mushrooming of villages in the Churachandpur district.

Sixth Schedule and Tribal Protection

- The Sixth Schedule of the Constitution — **Articles 244(2) and 275(1)** — has provisions for the administration of tribal areas in the border states of Assam, Meghalaya, Tripura and Mizoram.
- Under it, autonomous districts and councils, administered by elected representatives, have a varying degree of autonomy to frame laws to protect the interests of tribal people.
- This demand has also been gathering momentum in **Ladakh**.
- The leaders in Ladakh, however, are demanding powers similar to what has been given to the Bodoland Territorial Council under the Sixth Schedule.
- The **Bodoland Territorial Council** has been given greater autonomy to frame laws in comparison to other District Councils.
- As per the Constitution, the Bodoland Territorial Council can make laws on 39 additional subjects such as culture, education, health and agriculture, labour and employment, land and revenue among others.

Sports Governance in India

News Excerpt:

A recent **protest by Wrestlers across India against the Wrestling Federation of India's (WFI) President** on the allegation of sexual harassment raises serious issues over the issue of sports governance in India.

Evolution of Sports Governance in India

- In 1950, the Government of India established the **All-India Council of Sports** to address sports standards in the country.
- In 1982, the Government of India established the **Department of Youth Affairs and Sports** and subsequently **National Sports Policy** was initiated in 1984.
- In 2000, the Department of Youth Affairs and Sports was into a **Ministry of Youth Affairs and Sports (MYAS)**.
- In 2011, the Ministry notified the **National Sports Development Code of India 2011**.

The present model of Sports Governance

- The present model of sports governance is divided into two wings:
 - **Ministry of Youth Affairs and Sports**- Under its aegis, the **Sports Authority of India (SAI)**, along with other bodies, works towards the promotion of sports training.
 - Other wings include associations like the **Indian Olympic Association (IOA)**, along with other

State Olympic Associations and national and State sports federations.

- Sports federations get financial and infrastructural support from the Ministry, which also controls these federations through political representations.
- All sports federations and the State Olympic Association organize events under the IOA.

The Commission of Railway Safety (CRS)

News Excerpt:

Investigation into the recent tragic train accident in Odisha is being conducted by the Commissioner of Railway Safety.

About

- CRS is a **statutory body** established under the **Railways Act of 1989**.
- The Commission functions under the administrative control of **the Ministry of Civil Aviation**.
- It has jurisdiction over the **safety aspects of railway travel and operations**.
- Rail safety **commissioners** are part of the Commission of Railway Safety (CRS), a government body that acts as the railway safety authority in the country.
- The CRS conducts inspections and investigations and provides advisory services to ensure adherence to safety standards in the railway sector.

Knowledge Sharing Platform for Highway Development

News Excerpt:

NHAI has Launched a 'Knowledge Sharing Platform' for Inclusive Development of National Highways.

About:

- This initiative will help to collaborate with experts and citizens who want to share knowledge and insights related to topics such as road design, construction, road safety, environment sustainability and related fields.
- The platform will encourage sharing of best practices from around the world and will contribute towards holistic development of the National Highway infrastructure in the country.

National Training Conclave

News Excerpt:

The first-ever National Training Conclave was inaugurated by the Indian Prime Minister at the **International Exhibition and Convention Centre**, Pragati Maidan, New Delhi.

iGOTKarmayogi Platform

- It is a comprehensive online portal to **guide government officials in their capacity-building journey.**
- The portal combines 6 functional hubs for **online learning, competency management, career management, discussions, events and networking.**

Mission Karmayogi

- In September 2020, Government of India has launched Mission Karmayogi a **National Programme for Civil Services Capacity Building (NPCSCP).**
- The programme aims at building a future-ready civil service with the right attitude, skills and knowledge, aligned to the vision of New India.

National Training conclave

- The event was hosted by the **Capacity Building Commission (CBC)** and is sponsored by the **National Programme for Civil Services Capacity Building (NPCSCB)** - 'Mission Karmayogi', to foster collaboration among Civil Services Training Institutes (CSTIs) and strengthen the training infrastructure for civil servants across the country.
- The Conclave helped CSTIs together identify strategies to build and enhance the capabilities and capacities of training institutions.
- It provided a platform for networking, knowledge exchange, identifying challenges, and areas of collaboration, bringing together all stakeholders of the **Civil Service Training Ecosystem.**
- The Conclave witnessed participation from all over the country, with 1500+ participants, which included representatives from CSTIs across the nation, representatives from MDOs, policymakers, private sector experts, as well as representatives from academia.

Government e-Marketplace

About

Government e-marketplace (GeM) is a one-stop portal to **facilitate online procurement of common-use Goods & Services** required by various Government Departments.

Significance:

- GeM has been instrumental in transforming the way government procurement is done in India. It aims to enhance transparency, efficiency and speed in public procurement.
- As of March 31, 2023, GeM had recorded a staggering ₹ 2 lakh crore of Gross Merchandise Value (GMV) in FY 2022-23.

- Cumulatively, GeM has surpassed the ₹ 4.29 lakh crore GMV since its inception, with the overwhelming support of its stakeholders.
- The total number of transactions on GeM has also crossed 1.54 crore. GeM is catering to the diverse procurement needs of over 69,000 government buyer organizations.
- The portal features over 11,800+ product categories as well as over 280+ service categories.
- Based on various studies, the minimum savings on the platform are about 10%, which translates into a savings of Rs 40,000 crore worth of public money.

Digital birth certificates

News Excerpt:

A government notification stated all reported births and deaths in the country will be digitally registered on the Centre's portal from October 1.

About Digital birth certificates:

- The **Registration of Births and Deaths (Amendment) Act, 2023** paves the way for digital birth certificates.
- It will be a **single document** to be used for **admission to educational institutions**, applications for driving licences, government jobs, passports or Aadhaar, voter enrolment, and registration of marriage, among others.
- The centralized database will also update the National Population Register (NPR), ration cards, property registration and electoral rolls.
- It will be **compulsory for States to register births and deaths** on the Centre's Civil Registration System (CRS) portal and share it with the Registrar General of India (RGI).

National Population Register:

- It is a **register containing details of persons** usually residing in a village or rural area or town or ward or demarcated area within a ward in a town or urban area.
- It was **first prepared in 2010** and updated in 2015 under Sub-rule (4) of Rule 3 of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, **framed under the Citizenship Act, 1955.**
- To incorporate the changes due to birth, death and migration, the **NPR would be updated along with the House listing and Housing Operations** of the forthcoming Census.
- **Objective-** To create a **comprehensive database of usual residents** in the country.
- No document will be collected during this exercise.

CC_COMPILATION_POLITY

Multiple entry and exit options under NEP

News Excerpt:

A parliamentary panel on Education has advised the Union government to hold discussions with stakeholders before implementing the option of multiple entry and multiple exit (MEME) under the National Education Policy (NEP) through its report titled “**Implementation of the National Education Policy 2020 in Higher Education**”.

- The **NEP 2020** is founded on the five guiding pillars of **Access, Equity, Quality, Affordability** and **Accountability**.

Background:

- **Kothari Committee:** The **First National Policy on Education, 1968** and the **Second National Policy on Education in 1986** were brought out based on the recommendations of this committee.
- **Kasturirangan Committee:** **Third National Education Policy, 2020**, was based on the recommendations of this committee.
- **NATIONAL EDUCATION POLICY 2020**
 - Competency-based education
 - Integration of subjects
 - Development of scientific temper
 - NO SILOS among subjects/ learnings
 - Emphasis on Digital Literacy
 - Promotion of Multi-Lingual Teaching

MEME:

- **NEP 2020** envisages **multiple entry and exit for students (MEME)**, offering greater attention to life aspirations and flexibility for students.
- Students can opt for it at **graduate, master’s** and **doctoral** levels.
- A **certificate** will be provided after completing one year of study, a **diploma** after two years, and a **degree** after a three-year programme.
- An **academic bank of credit (ABC)** will digitally **store** the academic credits earned by a student.
- It removes “**rigid boundaries**” and creates new possibilities for “**life-long learning**”.
- For now, **the Kerala government** has decided **not** to implement **MEME** in the State.

Social Audit Unit of MGNREGS

News Excerpt:

The social audit units (SAUs) of the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) have flagged cases of **misappropriation**, and the last recovery has been only **13.8% in the ongoing financial year compared to 20.8% in FY 22-23**.

- **Status of MGNREGS as of 2023-24:**

14.32 crore active workers

7.71 crore assets created to date

179.96 crore person days generated

30.77 crore DBT transactions

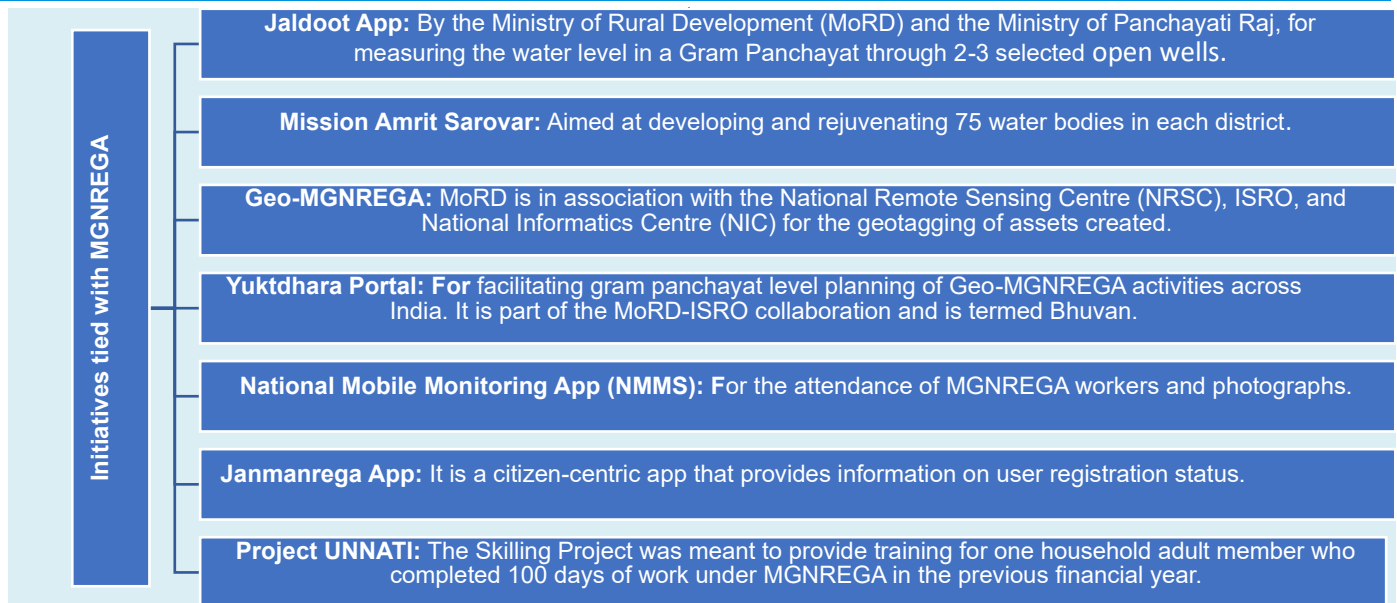
4.87 crore households benefitted

Social Audit:

- Process of **reviewing** official records and determining whether **state-reported expenditures** reflect the **actual monies** spent on the ground.
- **Section 17** of the **MGNREG Act** states that the **gram sabha** shall **monitor** the execution of works. Each State has **social audit units** that are supposed to work independently of the implementing authorities.
- Union Rural Development Ministry directly **funds** the social audit units to maintain their independence from the States.
- The social audit unit’s sole responsibility is to **flag malpractice** cases while recovering the money, and reprimanding the officials responsible is up to the State governments.

Recent Developments:

- **Amarjeet Sinha committee** reviewed the implementation of the MGNREGS.
- The Union government has released guidelines that made **digital** capture of the **attendance** of workers **universal** from January 1 2023.
- For the financial year **2023-24**, **MoRD** has notified **new wage rates** effective from April 1 2023 and Standard Operating Procedures for streamlining **timely payment**.
- Consumer Price Index - the Ministry of Rural Development uses Agriculture Labour (CPI-AL) to revise wages.
- MORD released a “**Social audit calendar vs. audits completed**” report stating that only **14.29 %** of planned audits have been completed.
- The union government has **extended** the deadline to December 31, 2023, for states to adopt an Aadhaar-based payment system (**ABPS**) to **avoid wage delays**.



POSH Act

News Excerpt:

The Supreme Court directed the **Centre, States** and Union territories (**UTs**) to **appoint District Officers** under the POSH Act immediately.

About POSH Act:

- The **Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act and Rules, 2013** ("Law") mandates every Employer to "provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace."
- The 2013 law broadened and gave legislative backing to **the Vishaka Guidelines**, laid down by the Supreme Court in a judgment passed in **1997**.
- **Bhanwari Devi case:** The case in question was filed by women's rights groups, including one called **Vishaka**, over the **alleged gang-rape of a social worker** from Rajasthan named Bhanwari Devi, who had fought against the marriage of a one-year-old baby girl in 1992, and had been allegedly gang-raped as retribution.
- The court made the guidelines **legally binding**, which **defined sexual harassment** and imposed **three key obligations on institutions of prohibition, prevention, and redressal**.

Role of a District Officer of POSH Act:

- Tasked with keeping the **redressal** and **monitoring** framework intact and further ensuring effective **implementation** of the Act.
- Constitutes the Local Complaints Committee (**LCC**) in each district for a workplace that employs **less than 10 workers**. An Internal Complaints Committee (**ICC**) is set up if the organization has **ten or more employees**.

- Tasked with designating a **nodal officer** in each block, taluka, and tehsil in rural or tribal areas, and ward or municipality in the urban area who receives **complaints** and forwards them to the concerned LCC.
- After conducting the **inquiry**, the LCC submits its **report** to the district officer and the employer, recommending action.
- The district officer forwards a **brief statement** on the **annual reports** (number of cases filed and their disposal) submitted by every employer in their jurisdiction to the Government.

Formation of Districts (Rajasthan)

News Excerpt:

Three new districts- **Malpura, Sujangarh, and Kuchaman**- were formed in Rajasthan, taking the total number of districts in the State to **53**.

About the news:

- Malpura will be carved out of the existing Tonk district, Sujangarh will be created from Churu and Kuchaman from Nagaur.
- Earlier in August this year, the Rajasthan cabinet approved the formation of **19 new districts** and **three new divisions** in the State.
- The formation of new districts and divisions will **enhance governance** in the State, **increase the capabilities** of the administrative units and **strengthen the law and order**.

Process of creation of a district:

- The state government can create new districts or alter or abolish existing ones.
- These changes can be made by passing an executive order or a law in the state Assembly.

CC_COMPILATION_POLITY

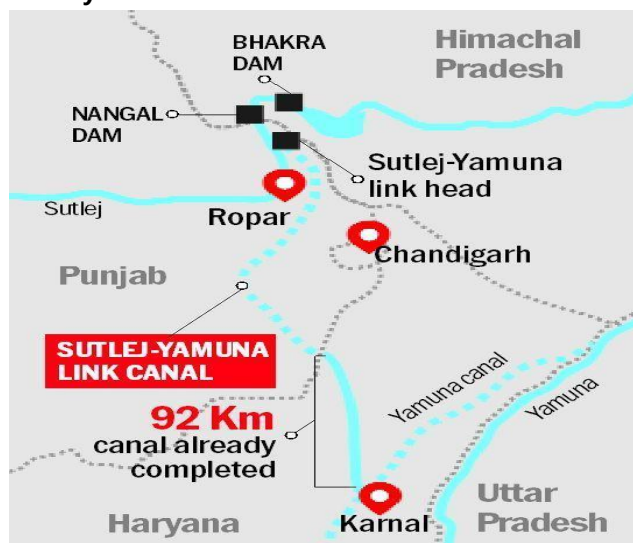
- The Centre does not have any powers related to the alteration of districts.
- However, the central Government's role comes into the picture when the State wants to change the name of a district or railway station.
- The state government must send requests seeking clearance to several central government departments like the Railway Ministry, the Ministry of Earth Sciences, the Intelligence Bureau, the Department of Posts and the Geographical Survey Of India.
- The Centre will issue a no-objection certificate after reviewing the replies of the above-mentioned departments.

Sutlej Yamuna Link (SYL) canal issue

News Excerpt:

The **Supreme Court** ordered the Government of **Punjab** to complete the **construction** of the Sutlej Yamuna Link Canal Project.

- SYL Canal runs about **121 km in Punjab** and **90 km in Haryana**



A brief history of the issue:

- **1976:** The Centre issued a notification to allocate surplus Ravi-Beas waters to Punjab and Haryana; Haryana suggested that the SYL canal be constructed.
- **1980:** A water-sharing treaty is signed between Punjab, Haryana, and Rajasthan; Punjab agrees to complete construction in two years.
- **1981:** Haryana completes construction of the canal.
- **1985:** The Punjab Assembly passed a resolution repudiating the water-sharing treaty.
- **1990:** Construction of the canal in Punjab stops.
- **2002:** SC directs Punjab to complete construction within a year. The two states continued to battle it out in the SC subsequently.

Habitat Rights for Baiga Tribal Group

News Excerpt:

The Chhattisgarh Government has granted habitat rights to its **Baiga Particularly Vulnerable Tribal Group (PVTG)**

- The Baiga PVTG became the second group ('Kamar' - the first group in Aug 2023) to be granted these rights in Chhattisgarh.

About the Baiga tribal group:

- The Baiga community, **which primarily** resides in Chhattisgarh and adjacent districts of Madhya Pradesh, is one of the Particularly Vulnerable Tribal Groups (PVTGs).
- They live semi-nomadic lives and practice slash-and-burn cultivation called '**bewar**' or '**dahiya**'. They rely on minor forest produce, especially **bamboo**.
- Their diet includes **coarse grains** like **kodo millet** and **kutki** and '**pej**', a drink made from ground macca or rice water.
- **Tattooing** is an important **cultural practice** where specific tattoos are applied to different body parts based on age.

Particularly vulnerable Tribal groups (PVTG)

- According to the Ministry of Tribal Affairs (**MoTA**), the **criteria** for declaring PVTG involves –
 - Technologically backwardness.
 - Stagnant or declining population.
 - Extremely low level of literacy.
 - Subsistence level of economy.
- PVTGs have **low health indices** and largely **reside** in isolated, remote, and difficult areas in small, scattered hamlets/habitats. There are **75 PVTGs** in 18 states and one Union Territory.

Habitat rights:

- **Habitat:**
 - Identifying a habitat is based on detailed **guidelines** from the Ministry of Tribal Affairs (**MoTA**).
 - The **tribal leaders** are **consulted** about the extent of their **culture, traditions, and occupation**.
 - **Four state-level departments**, i.e., Forest, Revenue, Tribal and Panchayati Raj, **coordinate** with the **UNDP** team to ascertain what can be termed as habitat.
 - Once the Government corroborates the information, a habitat is **officially declared**.
- The recognition of habitat rights grants the community rights over their traditional **living space**, cultural **customs**, economic and **livelihood** means,

intellectual knowledge of biodiversity and ecology, traditional knowledge of the use of natural resources, and preservation of their natural and cultural heritage.

- **Consent** and **consultation** of the **gram sabha** is required for any developmental activity, despite the title **not** being a form of **private property ownership**.
- **Forest Rights** enjoy **legal protection** under several laws, including the Forest Conservation Act and Land Acquisition Law of 2013. **Habitat rights** granted under the Forest Rights Act **further enhance** this legal protection.
- Out of **75 PVTGs**, only **three** have **habitat rights** – the **Bharia** tribe (MP), the **Kamar** tribe and the **Baiga** tribe of Chhattisgarh.

CARA, India's Adoption Regulation Body

News Excerpt:

India's adoption system faces a significant delay, with nearly 30,000 prospective parents waiting for an average of three years to adopt a child, resulting in only 10% of orphaned children being adopted annually, prompting the Supreme Court to question the issue.

About:

CARA and the JJ Act:

- The Juvenile Justice (Care and Protection of Children) Act 2015 **aimed** to reform the adoption system and curb inter-country adoption rackets.
 - The Act empowered CARA to streamline the process, establish an **e-governance system-Child Adoption Resource Information & Guidance System (CARINGS)**, and allow childcare institutions and civil society organizations to give a child for adoption directly.
 - In-country adoption increased from 3,011 to 3,374, and in 2018, CARA **allowed** individuals in a **live-in relationship** to adopt children from and within India.
 - In 2022, India **amended** the **JJ Act**, authorizing local District Magistrates (**DMs**) to **issue** adoption orders and **inspect** local childcare institutions, child welfare committees, and juvenile justice boards.

Adoption process:

- **Prospective parents** register on **CARINGS**, which conducts a **Home Study Report** and uploads findings.
- Unsuitable parents are rejected, and they are required to reserve one to six children for adoption within a specified time.

- The **SAA** completes the **referral** and **adoption process**, and parents can take in the child for pre-adoption foster care.
- The SAA files a **petition** in court, and CARA conducts **post-adoption follow-up** for two years.
- The SAA is the **first point** of government contact for a child, admitting abandoned or orphaned children into temporary homes.
- CARINGS provides a platform to around 469 specialized adoption agencies, 625 district child protection units, and 34 state adoption resource agencies.

CARA (Central Adoption Resource Authority):

- It was established in **1990** to oversee **child adoption** procedures for **Indians** and **non-resident Indians** living abroad.
- It oversees bodies like the State Adoption Resource Agency (**SARA**), Specialized Adoption Agency (**SAA**), Authorized Foreign Adoption Agency (**AFAA**), Child Welfare Committees (**CWCs**), and District Child Protective Units (**DPUs**).
- The organization centralizes **registration**, conducts **home study reports**, refers children, prepares **orders**, and conducts post-adoption **follow-ups**.
- CARA became a **signatory** to the **Hague Convention** on Protection of Children and Co-operation in **1993** to regulate **inter-country adoptions** and prevent the abduction, sale, or trafficking of children.
 - India **ratified** the convention in **2003**.
- Adoption is governed by the **Hindu Adoption and Maintenance Act (HAMA) 1956** and the **Juvenile Justice (Care and Protection of Children) (JJ) Act 2015**.
 - CARA is **relevant** for parents taking the JJ Act route.

Use of Donor Gametes through Surrogacy

News Excerpt:

The Supreme Court (SC) has protected the right of parenthood of a woman suffering from a rare medical condition of Mayer Rokitansky Kuster Hauser (MRKH) syndrome.

Background of the case:

- MRKH is characterized by an **underdeveloped or absent vagina and uterus**. Women with this disorder develop typical secondary sexual characteristics during

puberty but do not have a menstrual cycle. Hence, she cannot produce her own eggs.

- A government notification this year amended the law, **banning the use of donor gametes**. It said "intending couples" must use their own gametes for surrogacy.
- The petition was filed in the SC, challenging the Amendment as a **violation of a woman's right to parenthood**.
- The Supreme Court stayed the operation of Rule 7 of the Surrogacy (Regulation) Act, 2021, which bans the use of donor eggs for the procedure, to allow **the woman suffering from MRKH Syndrome** to undergo surrogacy using a donor egg.

About Surrogacy:

- It is a practice where a woman gives birth to a child for an intending couple with the intention to hand it over to them after the birth.
- Currently, the **Indian Government only allows 'altruistic surrogacy'** for which no monetary compensation can be provided. Surrogacy is **prohibited for commercial purposes**.

The Surrogacy (Regulation) Act 2021:

- It allows only married couples with medical conditions requiring gestational surrogacy to apply. They must obtain a recommendation from a **District Medical Board**.
- **Gestational surrogacy** includes having no uterus, missing uterus, abnormal uterus, or surgically removed uterus due to medical conditions, multiple failed conceiving attempts, multiple pregnancy losses due to unexplained medical reasons, graft rejection due to exaggerated immune response, or any illness that makes it impossible for a woman to carry a life-threatening pregnancy.
- **Eligibility of the Couple:** It is only restricted to a **legally wedded infertile couple** who have **no biological children of their own- not including a child who is mentally or physically challenged or suffers from a fatal illness- or a single or divorced woman above the age of 35**.
- The child born out of a surrogacy procedure is considered a biological child.
- **The Assisted Reproductive Technology (Regulation) Act 2021:** It was passed to regulate and oversee assisted reproductive technology clinics and banks. E.g., In-vitro fertilization (IVF), intrauterine insemination, and gamete donation.

About Commercial Surrogacy:

- **Commercial Surrogacy** is a branch of gestational surrogacy in which a gestational carrier is paid to carry a child to maturity in her womb and is usually hired by higher-income infertile couples.

"One Nation, One Student ID" – APAAR ID

News Excerpt:

Several **state governments** asked schools to get **permission** from parents in order to create a new student identity card called the **Automated Permanent Academic Account Registry (APAAR)**.

About:

- The APAAR is intended to serve as a unique ID system for all Indian students.
- It is a part of the **"One Nation, One Student ID" program**, which is founded on the National Education Policy (NEP) 2020.
 - The new NEP is based on the **pillars of Access, Equity, Quality, Affordability, and Accountability**. It aims to make both school and college education more holistic, multidisciplinary, and flexible.
- **Contains all of a student's personal information:** It includes details on the student's name, residence, date of birth, gender, picture, sports participation, educational loans, scholarships, and other honours, among other things.
- **Portal to Digi locker:**
 - Allow students to keep their accomplishments and academic data online, including report cards, degrees, awards, scholarships, and other student credits.
 - Makes it simpler for students to access and utilize these materials later on, e.g., when applying for jobs or continuing their studies.
- The registration for the creation of the APAAR ID is **voluntary and not mandatory**.

Universal Declaration of Human Rights @ 75

News Excerpt:

The year 2023 marks the **75th anniversary** of the **Universal Declaration of Human Rights**, which coincides with the **30th anniversary** of the **Office of the High Commissioner for Human Rights**.

What is the Universal Declaration of Human Rights?

- 75 years ago (**December 10**), the UN General Assembly approved the **Universal Declaration of Human Rights** at a meeting of the **Paris Peace Treaty** by laying one of the foundation stones of the international order that emerged following the horrors of **World War II**.
- The Declaration was proclaimed as **"a common standard of achievement for all peoples and all nations."**

What was the Universal Declaration of Human Rights?

- A relatively compact document, the Declaration consists of a **preamble** and **'30 articles** setting out **fundamental rights and freedoms** as follows:
 - **Article 1:** It states that all human beings are born free and equal in dignity and rights.
 - **Article 2:** It states that everyone is entitled to all the rights and freedoms. It prohibits distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or another status.
 - **Other Articles:** They state that "everyone has the right to life, liberty and the security of person" and that no one "shall be held in slavery or servitude" or "subjected to torture or cruel, inhuman or degrading treatment or punishment."
- **Equality before Law:** The Declaration says that "all are equal before the law" and that everyone is entitled to "a fair and public hearing by an independent and impartial tribunal."
 - **Right to Remedy (article 8):** It also says that "everyone has the right to seek and to enjoy asylum from persecution in other countries."
 - **Right to Peaceful Justice:** The Declaration enshrines the rights to freedom of religion, freedom of opinion and expression, and freedom of peaceful Assembly. It also says that everyone has the right to education.

Constitution Day - November 26

News Excerpt:

The **Ministry of Law and Justice**, in collaboration with the **Indian Law Institute**, celebrated Constitution Day at Vigyan Bhavan, New Delhi.

About:

- November 26 was marked as the Constitution Day of India (or "**Samvidhan Diwas**") in the year 2015 as a part of a year-long celebration of the 125th birth anniversary of Dr B R Ambedkar.
- Earlier, this day was celebrated as Law Day, but in 2015, the Indian Government modified Law Day as Constitution Day.
- On **November 26, 1949**, 73 years ago, the Constitution of India was **adopted**, coming into **effect on January 26, 1950**.
 - The Constituent Assembly for Independent India drafted the Constitution for two years, 11 months, and 17 days, with 11 sessions and 7,600 amendments.

- As part of this year's celebrations, a **national-level** transformative **Colloquium** will feature **five technical sessions**.
 - The Colloquium **aims** to explore the crucial **link** between **constitutional values** and **global aspirations** with the planet's well-being and its inhabitants.
 - This will provide an opportunity for **legal luminaries, policymakers, and academia**, among others, to deliberate upon the **reformative needs** of our laws, focusing on the **vision @2047**.
- BR Ambedkar's statue will be installed on the Supreme Court premises.

Truth and Reconciliation Commission

News Excerpt:

Supreme Court Judge Justice Sanjay Kaul recommended setting up a Truth and Reconciliation Commission (TRC) to investigate alleged **human rights** violations by both **State** and **non-state** actors in J&K.

Countries with such commissions in the past:

- In India's neighbourhood, TRCs have been set up in **Sri Lanka** and **Nepal**.
- **Canada** set up one in **2008** to investigate the **violations** in the **First Nation Indian residential school system** (similar to the American-Indian boarding school systems, which involved the **children** of First Nation tribes being **forcibly sent** to residential schools, characterized by **extreme discipline** and often led to widespread **abuse** and deaths of the children).
- In **South Africa**, the first post-apartheid Government established a TRC in **1995** to uncover the truth of **human rights violations** during the decades of **apartheid**.

About TRC:

- It is also known as the "**Truth and Justice Commission**."
- It is an official mechanism **to acknowledge** and **reveal** wrongdoings by a government (or non-state actors or combatants).

Amplifi 2.0 Portal

News Excerpt:

The Ministry of Housing and Urban Affairs (**MoHUA**) launched the **Amplifi 2.0** (Assessment and Monitoring Platform for Liveable, Inclusive and Future-ready Urban India) **portal**.

About:

- Amplifi 2.0 portal is a platform that provides **raw data** from **Indian cities** for data-driven **policymaking**.
- Under Amplifi 2.0, data across **fourteen sectors** is **streamlined** to increase focus on data collection, and domain experts can **analyze disaggregated data**.
 - Sectors include - **demography, economy, education, energy, environment, finance, governance, health, housing, mobility, planning, safety and security, solid waste management, and water and sanitation**.
 - MoHUA **aims** to make data from **over 4,000 ULBs** available on the portal.

Alderman

News Excerpt:

During the review of the Delhi government's petition against the appointment of Aldermen by the Lieutenant-Governor (LG), the Supreme Court expressed concern over the potential destabilization of the Elected Civic Body if the LG were given the power to nominate members of the Municipal Corporation of Delhi (MCD).

- As per **the Delhi Municipal Corporation Act, 1957**, ten people, over the age of 25 can be nominated to the corporation by the administrator (the Lieutenant Governor).
- These people are expected to have special knowledge or experience in municipal administration.
- They are meant to assist the House in making decisions of public importance.

Etymology and Early Usage:

- The word "alderman" is derived from the combination of **"old" and "man,"** originally referring to an older or experienced person.
- Initially, it denoted the **elders of a clan or tribe**, but later, it became a term for the king's viceroys, irrespective of age.

Over time, it acquired a more specific meaning as **the "chief magistrate of a county," with both civil and military responsibilities**.

Prison Deaths

News Excerpt:

Recently, the Supreme Court-appointed Committee on Prison Reform, led by **Justice (ret.) Amitava Roy** emphasized that the **major cause of "unnatural death" was suicide**. The committee discovered that 660 of the 817 fatalities that were not natural were suicides.

Key findings of the Supreme Court Committee on Prison Reform Report:

The committee report is based on the data provided by Prison Statistics India (PSI) report from 2017-2021 published by the National Crime Record Bureau (NCRB).

Report Findings:

- Custodial death has steadily increased since 2019.
- 2021 recorded the highest number of deaths so far.
- About 80% of the deaths are due to suicide.
- Out of 817 Unnatural deaths, 660 were suicides.
- Uttar Pradesh has recorded the highest number of suicides (2017-2021), followed by Punjab and West Bengal.

Government Initiatives:

- **The Government of India set up the National Mission for Justice Delivery and Legal Reforms** to reduce judicial delay and pendency. Also, to enhance accountability in the systems.
- **Fast Track Courts** have been established to address the 4.7 crore pending case and expedite the judicial process.
- **Model Prison Manual (2016) and Mental Healthcare Act (2017)** outline inmates' right to humane conditions, including healthcare facilities and suicide prevention programs.

Constitutional Provisions for Under trials:

- **Article 21:** Right to Life with Dignity
- **Article 39A:** Right to Free legal aid



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