Corrigendum to the J&K Reorganisation Act

Why in news?

Recently, the Union Ministry of Law and Justice was forced to issue a corrigendum to the Jammu and Kashmir Reorganisation Act.

What is the J&K Reorganisation Act?

- The Act gave legal force to the de facto revocation of Article 370.
- It had mandated a special relation between the Centre and the erstwhile state.
- The Act was introduced to divide Jammu and Kashmir into two Union Territories - Jammu and Kashmir, and Ladakh.
- Both of this is to come into existence on October 31 2019.

What was the corrigendum?

- The corrigendum had to correct as many as 52 errors in the Act, from simple spelling mistakes to incorrectly referenced laws.
- E.g. administrator has been spelt as "Adminstrator" while article became 'artcle', territories - "tterritories", Shariat - "Shariet", Safai Karamcharis - "Safaikaramcharis"
- Before corrections were notified, the Act even mentioned that there would be delimitation of the parliamentary constituencies of J&K.
- However, the corrigenda said the sentence has been omitted now.
- Some of the other key errors include "State of Jammu and Kashmir" for "Union territory of Jammu and Kashmir", "Institutes Act, 2005" for "Institutions Act, 2004", "1951" for "1909".

What are the other such cases?

- This was not an isolated incident.
- The ministry has had to issue such corrigenda frequently, particularly when it came to Ordinances, such as those amending the corporate income-tax law.
- They appear to have been drafted in haste and without due consultation.
- On other occasions, no official amendments or corrigenda are issued.
- In such cases, the concerned minister gives a verbal assurance to the Parliament that any deficiencies in the wording of the law would be corrected at the time of issuing the relevant rules.

What is the larger concern?

- It is a reflection of the lack of application of mind that appears to have crept into the law-making process within the executive.
- Another worrying cause is the constant relaxing of the due process in policy-making and legislation.
- Errors in drafting, if not caught, can have ramifications much later in the future.
- Mistakes in tax laws are particularly dangerous because they can leave loopholes, which private lawyers and accountants can exploit.
- On the other hand, closing them retroactively would have a strongly negative effect on public opinion and investor confidence.

What is the measure taken?

- The Cabinet Secretariat recently wrote to the various Union ministries and departments.
- It was pointed out that they are required to share drafts of Cabinet notes well in advance.
- Thereby, any deficiencies and inconsistencies may be spotted before the legislative process begins.
- At least 15 days should also be set aside for the Cabinet Secretariat and the Prime Minister’s Office.
- This is to examine the notes in question as well as for standard inter-ministerial consultations.
- This is the recommended time for finalising notes in the Handbook, which governs the writing of Cabinet notes.

What is to be addressed?

- The Cabinet Secretariat is to be commended for acting to remind the line ministries and departments of this issue.
- However, besides this, the real problem lies in the nature of decision-making.
- Too many major policy changes with deep legal implications are being made in relative secrecy.
- Inadequate consultation within the government or with the Parliament is becoming the norm.
- Unrealistic and imprudent timelines for major changes are being forced on the bureaucracy for key decisions.

What is the way forward?

- Fear about leaks and public discussions of major changes is contrary to the spirit of representative liberal democracy, with negative implications for

quality governance.

- The process underlying legislation and policy changes has evolved to minimise error and maximise efficiency; this should be respected.
- Importantly, drafting capacity within the government should be enhanced.
- Public discussion should be formalised, and cabinet notes and draft legislation should be taken serious.

Source: Economic Times, Business Standard

